

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

NATIONAL COMMUNITY
REINVESTMENT COALITION,
740 15th Street, NW, Suite 400
Washington, DC 20005,

Plaintiff,

v.

OFFICE OF THE COMPTROLLER OF THE
CURRENCY,
400 7th Street, SW
Washington, DC 20219,

and

FEDERAL DEPOSIT INSURANCE
CORPORATION,
550 17th Street, NW
Washington, DC 20429,

Defendants.

Civil Action No. _____

COMPLAINT FOR INJUNCTIVE RELIEF

1. Plaintiff National Community Reinvestment Coalition (“NCRC”) brings this action against Defendants the Office of the Comptroller of the Currency (“OCC”) and the Federal Deposit Insurance Corporation (“FDIC”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”).

2. NCRC is a non-profit organization that seeks to increase the flow of private capital into traditionally underserved communities, and thereby support an increase in financial stability. The Community Reinvestment Act, 12 U.S.C. § 2901 (“CRA” or “Act”), requires financial institutions to invest in the communities that they serve, and is an important tool for

NCRC to accomplish its mission.

3. OCC and FDIC are revising their regulations implementing the CRA in a manner that would substantially weaken the Act and undermine the accomplishment of its statutory purpose. *See* OCC & FDIC, Community Reinvestment Act Regulations, 85 Fed. Reg. 1204 (Jan. 9, 2020) (“Proposed Rule”).

4. In order to develop a better understanding of the underpinnings of the proposed regulatory revisions, NCRC submitted FOIA requests to OCC and FDIC seeking the data and analysis underlying the joint OCC-FDIC rulemaking.

5. Defendants have failed to respond sufficiently to NCRC’s FOIA requests for records containing data, facts, and analysis that underpin the joint OCC-FDIC Community Reinvestment Act rulemaking. NCRC therefore respectfully requests that the Court compel Defendants to comply with FOIA.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

7. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e)(1).

PARTIES

8. Plaintiff National Community Reinvestment Coalition is a not-for-profit organization based in Washington, D.C. and organized under the laws of the District of Columbia. NCRC works to eliminate discrimination in housing and small business lending. Its members include community reinvestment organizations, community development corporations, local and state government agencies, faith-based institutions, community organizing and civil

rights groups, and minority- and women-owned business associations, as well as local and social service providers from across the nation. NCRC's mission is to increase fair and equal access to credit, capital, and banking services and products in low- and moderate-income communities.

9. Defendant Office of the Comptroller of the Currency is a federal agency within the meaning of FOIA, *see* 5 U.S.C. § 552(f)(1), that is headquartered in Washington, D.C. OCC has possession, custody, and control of records that NCRC has requested under FOIA.

10. Defendant Federal Deposit Insurance Corporation is a federal agency within the meaning of FOIA, *see* 5 U.S.C. § 552(f)(1), that is headquartered in Washington, D.C. FDIC has possession, custody, and control of records that NCRC has requested under FOIA.

FACTUAL ALLEGATIONS

NCRC's FOIA Request to OCC

11. On January 14, 2020, NCRC sent a FOIA request to OCC requesting the following records, which relate to the ongoing Community Reinvestment Act rulemaking (page numbers cited are to the Federal Register publication of the Proposed Rule):

1. All records containing an analysis or explanation for the selection of the sample of performance evaluations completed between 2011 and 2018 as referred to in footnote 39 on page 1222 and a list of the performance evaluations used in the sample referred to in the footnote.
2. All records containing an analysis of the sample of performance evaluations referred to in footnote 39 on page 1221.
3. All records, data analysis, and reports containing an analysis of or information about the empirical benchmarks used for the CRA performance measure in Section 25.12 of the CRA NPR, page 1240.
4. All records, data analysis, reports containing an analysis of or information about the proposed "Retail Lending Distribution Tests" described in Section 25.11 at pages 1245-46. Records with analysis of or information about the thresholds of 65% and 55% for passing the peer and demographic comparators, respectively, on the borrower distribution and geographic distribution tests of the retail distribution tests, pages 1219-21.

5. All records containing an analysis of or information about the threshold concept referred to on pages 1217-18 and 1219 regarding a bank receiving a satisfactory or an outstanding presumptive bank-level rating if it receives that rating in just “more than 50 percent of its assessment areas, and in those areas where it holds a significant amount of deposits.”
6. All records, data and analyses containing information about the 50% minimum threshold for determining “deposit-based” assessment areas in proposed Section 25.08(c), page 1244.
7. All records containing an analysis of or information about the 5% minimum threshold that deposit-based assessment areas should consist of geographical areas containing 5% or more of the bank’s deposits.
8. Any record that describes or estimates how many small banks and how many large banks would be required to add new assessment areas based upon the changes addressed on page 1215, and in proposed Section 25.08, pages 1244-45.
9. Any record that contains an analysis of or information about the proposed definitions of distressed and underserved census tracts, as discussed on pages 1209-10, and defined in Section 25.03 at page 1254 (“distressed area”) and page 1242 (“underserved area”).
10. Any record containing an analysis of or information about the identification of and/or how many areas would be “high-cost areas” as proposed in proposed Section 25.03 at page 1242.
11. All records containing an analysis of or information about the proposed definition of “small business” including the increase in revenue size in Section 25.03 at page 1255 and all records containing an analysis of or information about the definition of a “small farm,” including the increase in revenue size.
12. All records containing an analysis of or information about the proposed increase to the loan size for small loans to businesses, farms, and the increase to the revenue size threshold for small farms at page 1207.
13. All records containing an analysis of or information about the change to the current regulatory definition of “community development” that includes “activities that revitalize or stabilize . . . underserved nonmetropolitan middle-income geographies . . .” to the CRA NPR description of “community development” that does not include the reference to “revitalize or stabilize” at page 1213. All records containing an analysis of or information about the change in the regulatory definition of community development that excluded “economic development,” and included “essential infrastructure” at page 1213.

14. All records containing an analysis of or information about the proposal that affordable housing can be defined as housing for middle income households, included in the list of qualifying activities on page 1231, and proposed in Section 25.04(c)(1)(i)(D) and (E), page 1242-43.
15. All records containing an analysis of or information about “Community development investment means a lawful investment, membership share, deposit, legally-binding commitment to invest that is reported on the Call Report, Schedule RC-L...” including information about the impact of this definition on projected levels of investment in LMI communities.

Ex. A. at 2-3 (“OCC Request”).

12. The time period for the request encompasses, but is not limited to, the period of OCC’s preparation for the Advanced Notice of Proposed Rulemaking for the Community Reinvestment Act rulemaking, published on September 5, 2018. *Id.* at 2.

13. NCRC sought a waiver of search and duplicating fees under 5 U.S.C. § 552(a)(4)(A)(iii), which requires a fee waiver if the disclosure is “in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” *See* Ex. A at 4.

14. OCC assigned the OCC Request number 2020-00097-F. In response to an inquiry from NCRC about the status of the request, OCC informed NCRC that there was a backlog and the OCC Request was not yet being processed. *See* Ex. B.

15. As of the date of this Complaint, OCC has failed to inform NCRC whether it will comply with the FOIA request, produce all requested records, or demonstrate that any responsive documents are lawfully exempt from production. Nor has OCC notified NCRC of the scope of any responsive records the agency intends to produce or withhold, and the reasons for any withholdings, or informed NCRC that it may appeal any adequately specific, adverse determination. Nor has OCC notified NCRC of any determination on NCRC’s request for a fee waiver.

16. Because OCC has “fail[ed] to comply with the applicable time limit provisions” of the FOIA, NCRC is “deemed to have exhausted [its] administrative remedies.” 5 U.S.C. § 552(a)(6)(C)(i).

NCRC’s FOIA Request to FDIC

17. On February 9, 2020, NCRC sent a FOIA request to FDIC requesting the following records relating to the ongoing Community Reinvestment Act rulemaking (page numbers cited are to the Federal Register publication of the Proposed Rule):

1. Records reflecting the standards used for the selection of the sample of performance evaluations completed between 2011 and 2018 as referred to in footnote 39 on page 1221 and a list of the performance evaluations used in the sample referred to in the footnote.
2. The data and analysis of the sample of performance evaluations referred to in footnote 39 on page 1221.
3. The data and analysis used to inform the empirical benchmarks used for the CRA performance measure in Section 345.12, page 1260.
4. The data and analysis used to inform the proposed “Retail Lending Distribution Tests” described in Section 345.11 at pages 1259 - 1260, including analysis of the thresholds of 65% and 55% for passing the peer and demographic comparators, respectively, on the borrower distribution and geographic distribution tests of the retail distribution tests.
5. The data and analysis used to inform the threshold referred to on pages 1217-18 for when a bank receives a satisfactory or outstanding rating in a “significant portion” of its assessment areas, defined as “more than 50 percent, of its assessment areas, and in those assessment areas where it holds a significant amount of deposits.”
6. The data and analyses used to inform the threshold for when a bank must delineate a deposit-based assessment area, defined as when a “bank... receives 50 percent or more of its retail domestic deposits from geographic areas outside of its facility-based assessment areas” in proposed Section 345.08(c), page 1258.
7. The data and analysis used to inform the 5% minimum threshold for a deposit-based assessment area in proposed Section 345.08(c), page 1258.
8. Any estimates or discussion of how many small banks or how many large banks

would be required to add new assessment areas based upon the changes addressed on pages 1215-1216, and in proposed Section 345.08, page 1258.

9. The data or analysis used to inform the proposed definitions of distressed or underserved census tracts, as discussed on pages 1209-10, and defined in Section 345.03 at page 1254 (“distressed area”) and page 1255 (“underserved area”).
10. The data or analysis used to inform the identification of and/or the quantity of areas that would be considered “high-cost areas” as proposed in Section 345.03 at page 1254.
11. The data or analysis used to inform the proposed definition of “small business,” including the increase in revenue size in Section 345.03 at page 1255, or of a “small farm,” including the increase in revenue size, page 1255.
12. The data or analysis used to inform the proposed increase to the loan size for small loans to businesses, farms, and the increase to the revenue size threshold for small farms, page 1255.
13. Records, including data or analysis, reflecting the proposal to remove from the definition of “community development” the reference to “activities that revitalize or stabilize . . . underserved nonmetropolitan middle-income geographies . . .” and/or the change in the regulatory definition of community development to exclude “economic development” and included “essential infrastructure, page 1213.
14. Records, including data or analysis, reflecting the proposal that affordable housing can be defined as housing for middle income households, included in the list of qualifying activities on page 1231, and proposed in Section 345.04(c)(1)(i)(D) and (E), page 1256.
15. Records, including data or analysis, reflecting the proposal to define “Community development investment” as “a lawful investment, membership share, deposit, legally-binding commitment to invest that is reported on the Call Report, Schedule RC-L . . . ,” including any information about the impact of this definition on projected levels of investment in LMI communities.

Ex. C at 2-3 (“FDIC Request”).

18. The time period for the FDIC Request is January 1, 2018 to January 9, 2020. *Id.* at 1.
19. NCRC sought a waiver of search and duplicating fees under 5 U.S.C.

§ 552(a)(4)(A)(iii), which requires a fee waiver if the disclosure is “in the public interest because

it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” *See* Ex. C at 3-4.

20. FDIC sent NCRC an acknowledgment letter on February 12, 2020, in which it informed NCRC that it had assigned the FDIC Request the FDIC FOIA Log Number 20-0127 and granted the request for a fee waiver. Ex. D at 3.

21. On March 4, 2020, FDIC sent NCRC its final response to the FDIC Request. *See* Ex. E (“FDIC Final Response Letter”). In that letter, FDIC indicated that it found only three potentially responsive records, all of which originated with other agencies: one from the OCC and two from the Board of Governors of the Federal Reserve. FDIC referred the documents to the respective agencies for review and direct response to NCRC. *See id.* at 3.

22. The FDIC Final Response Letter stated that FDIC was “now closing our file on your request.” *Id.* at 3. It did not inform NCRC of any appeal rights. *See id.* Because FDIC did not inform NCRC of any administrative appeal rights, NCRC has exhausted its administrative remedies with respect to the FDIC Request. *See Oglesby v. U.S. Dep’t of the Army*, 920 F.2d 57, 67 (D.C. Cir. 1990).

CLAIMS FOR RELIEF

Count One (Violation of FOIA, 5 U.S.C. § 552, OCC Request)

23. NCRC repeats and incorporates by reference the foregoing paragraphs as if fully set forth herein.

24. By failing to respond to NCRC’s request within the statutorily prescribed time limit, OCC has violated its duties under FOIA, 5 U.S.C. § 552, including, but not limited to, its duties to conduct a reasonable search for responsive records, to produce all responsive, reasonably segregable, non-exempt records, and to grant NCRC’s request for a fee waiver.

25. NCRC is being irreparably harmed by OCC's violation of FOIA, and NCRC will continue to be irreparably harmed unless OCC is compelled to comply with FOIA.

Count Two
(Violation of FOIA, 5 U.S.C. § 552, FDIC Request)

26. NCRC repeats and incorporates by reference the foregoing paragraphs as if fully set forth herein.

27. By failing to perform a search that could be "reasonably expected to produce the information requested," FDIC has violated its duties under FOIA, 5 U.S.C. § 552. *Oglesby v. Dep't of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990).

28. NCRC is being irreparably harmed by FDIC's violation of the FOIA, and NCRC will continue to be irreparably harmed unless FDIC is compelled to comply with the FOIA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff NCRC respectfully requests that the Court:

1. order Defendants to conduct searches for any and all records responsive to NCRC's FOIA requests and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to NCRC's FOIA requests;
2. order Defendants to produce, by a date certain, any and all non-exempt records responsive to NCRC's FOIA requests and a *Vaughn* index of any responsive records withheld under a claim of exemption;
3. enjoin Defendants from continuing to withhold any and all non-exempt records responsive to NCRC's FOIA requests;
4. order Defendant OCC to grant NCRC's request for a fee waiver;
5. grant NCRC an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and

6. grant any other relief this Court deems appropriate.

Dated: April 8, 2020

Respectfully submitted,

/s/ Nitin Shah

Nitin Shah (D.C. Bar No. 156035)
Jeffrey B. Dubner (D.C. Bar No. 1013399)
Sean Lev (D.C. Bar No. 449936)
DEMOCRACY FORWARD FOUNDATION
1333 H Street N.W.
Washington, D.C. 20005
(202) 448-9090
nshah@democracyforward.org
jdubner@democracyforward.org
slev@democracyforward.org

Counsel for Plaintiff

EXHIBIT A



202 628-8866 | www.ncrc.org
 740 15th Street, NW
 Washington, DC 20005

Jesse Van Tol
 Chief Executive Officer

John E. Taylor
 President & Founder

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Brent Kakesako
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Matthew Lee
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Aaron Miripol
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Andreanecia Morris
 HousingNola

Dory Rand
 Woodstock Institute

Elisabeth Risch
 Metropolitan St. Louis Equal
 Housing & Opportunity Council

Arden Shank
 Community Reinvestment
 Alliance of South Florida

Kevin Stein
 California Reinvestment Coalition

Beverly Watts
 Tennessee Human Rights Commission

Marceline A. White
 Maryland Consumer Rights Coalition

By Electronic Filing

January 14, 2020

**Office of the Comptroller of the Currency
 Disclosure Services
 400 7th Street, SW
 Suite 3E-218
 Washington, DC 20219**

Re: Freedom of Information Act Request

To Whom It May Concern:

This is a request under the Freedom of Information Act (FOIA), 5 U.S.C. 552.

The National Community Reinvestment Coalition (NCRC) requests that a copy of the records listed below, or all records containing the information encompassed by the requests below, be provided to NCRC, to my attention at the address or email address following my signature below. As the FOIA requires, you should release all reasonably segregable nonexempt portions of the documents. If a document contains both relevant and irrelevant information, please provide the entire document or those portions that are non-exempt. Records should be provided as they are located; it is not appropriate to delay disclosure until all responsive records are identified. Subject to the fee waiver request below, NCRC agrees to pay applicable fees. If you deny the fee waiver in whole or in part, please give me an estimate of the fees to be charged prior to undertaking work that will generate the fees.

NCRC is a national organization recognized as a 501(c)(3) tax exempt organization with over 600 grassroots organizations that create opportunities for people to build wealth. We work with community leaders, policymakers and financial institutions to champion fairness and end discrimination in lending, housing and business. NCRC does not seek this information for commercial purposes. The requested information is critical to NCRC's ability to respond fully to the Notice of Proposed Rulemaking published January 9, 2020 at 85 FR 1204, (CRA NPR) and is needed to inform the public about the underpinnings of the proposed rule. This is especially critical in light of proposed changes that, in NCRC's view, would undoubtedly have the effect of undermining the central purposes of the Community Reinvestment Act to facilitate retail lending, branching, economic development, affordable housing and support for small business in low- and moderate-income communities. The 60-day comment

period should be expanded well beyond the date of disclosure of all of the records to be provided to us.

Records Requested:

All requests concern the application of the Community Reinvestment Act to the OCC's proposed rule and assessment of financial institutions' level of success or failure in meeting the CRA's underlying statutory purposes of encouraging, requiring or expecting banks to serve communities, as referred to in the CRA NPR. See <https://www.govinfo.gov/content/pkg/FR-2020-01-09/pdf/2019-27940.pdf>. The time period of the requested records encompasses the period of OCC's preparation for of the Advance Notice of Proposed Rulemaking, Reforming the Community Reinvestment Act Regulatory Framework, Office of the Comptroller of the Currency, 83 Fed. Reg. 45053 (proposed September 5, 2018) (codified at 12 C.F.R. Pts. 25 and 195), although the underlying sources cited or used in the documents requested in this FOIA request may predate the above stated time period. The page numbers cited below are from the CRA NPR. The request follows:

Thresholds and Benchmarks – Are they based on meaningful data?

1. All records containing an analysis or explanation for the selection of the sample of performance evaluations completed between 2011 and 2018 as referred to in footnote 39 on page 1222 and a list of the performance evaluations used in the sample referred to in the footnote.
2. All records containing an analysis of the sample of performance evaluations referred to in footnote 39 on page 1221.
3. All records, data analysis, and reports containing an analysis of or information about the empirical benchmarks used for the CRA performance measure in Section 25.12 of the CRA NPR, page 1240.
4. All records, data analysis, reports containing an analysis of or information about the proposed "Retail Lending Distribution Tests" described in Section 25.11 at pages 1245-46. Records with analysis of or information about the thresholds of 65% and 55% for passing the peer and demographic comparators, respectively, on the borrower distribution and geographic distribution tests of the retail distribution tests, pages 1219-21.
5. All records containing an analysis of or information about the threshold concept referred to on pages 1217-18 and 1219 regarding a bank receiving a satisfactory or an outstanding presumptive bank-level rating if it receives that rating in just "more than 50 percent of its assessment areas, and in those areas where it holds a significant amount of deposits."
6. All records, data and analyses containing information about the 50% minimum threshold for determining "deposit-based" assessment areas in proposed Section 25.08(c), page 1244.
7. All records containing an analysis of or information about the 5% minimum threshold that deposit-based assessment areas should consist of geographical areas containing 5% or more of the bank's deposits.

Expansion of What Counts for CRA Credit – Will the new service areas and newly credited activity really help LMI communities?

8. Any record that describes or estimates how many small banks and how many large banks would be required to add new assessment areas based upon the changes addressed on page 1215, and in proposed Section 25.08, pages 1244-45.
9. Any record that contains an analysis of or information about the proposed definitions of distressed and underserved census tracts, as discussed on pages 1209-10, and defined in Section 25.03 at page 1254 (“distressed area”) and page 1242 (“underserved area”).
10. Any record containing an analysis of or information about the identification of and/or how many areas would be “high-cost areas” as proposed in proposed Section 25.03 at page 1242.
11. All records containing an analysis of or information about the proposed definition of “small business” including the increase in revenue size in Section 25.03 at page 1255 and all records containing an analysis of or information about the definition of a “small farm,” including the increase in revenue size.
12. All records containing an analysis of or information about the proposed increase to the loan size for small loans to businesses, farms, and the increase to the revenue size threshold for small farms at page 1207.
13. All records containing an analysis of or information about the change to the current regulatory definition of “community development” that includes “activities that revitalize or stabilize . . . underserved nonmetropolitan middle-income geographies . . .” to the CRA NPR description of “community development” that does not include the reference to “revitalize or stabilize” at page 1213. All records containing an analysis of or information about the change in the regulatory definition of community development that excluded “economic development,” and included “essential infrastructure” at page 1213.
14. All records containing an analysis of or information about the proposal that affordable housing can be defined as housing for middle income households, included in the list of qualifying activities on page 1231, and proposed in Section 25.04(c)(1)(i)(D) and (E), page 1242-43.
15. All records containing an analysis of or information about ““Community development investment means a lawful investment, membership share, deposit, legally-binding commitment to invest that is reported on the [Call Report, Schedule RC-L](#)...” including information about the impact of this definition on projected levels of investment in LMI communities.

Fee Waiver Request

NCRC requests a waiver of fees under 5 U.S.C. 552(a)(4)(A)(iii) because the requested information is in the public interest and will contribute significantly to the public understanding of government operations, including the Office of the Comptroller of the Currency (OCC) "Joint Notice of Proposed Rulemaking, Community Reinvestment Act Regulations," Docket ID OCC-2018-0008 & RIN 1557-AE3, published January 9, 2020 at 85 FR 1204. NCRC has a robust public distribution outlet through its website at ncrc.org and is known for its research and analysis. See, e.g., <https://ncrc.org/research/> and <https://ncrc.org/category/press/> (contents incorporated herein as examples of analysis, publication and reach). NCRC will share with the public significant findings from the requested information.

In the alternative, NCRC would be entitled to a fee waiver as a "a representative of the news media," which "means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience... 'news' means information that is about current events or that would be of current interest to the public." 5 U.S.C. 552(a)(4)(A)(ii). NCRC's full analysis of the proposed rule on CRA will rely upon the underpinnings of that rule, as sought in this

FOIA request. The information is of current interest to the public because the proposed rule is subject to a 60-day comment period that commenced upon the publication of the Notice of Proposed Rulemaking in the *Federal Register* on January 9, 2020. Without the information, NCRC, its members and the public will not have access to the basis for OCC's CRA evaluation framework, applicable to financial institutions throughout the nation. NCRC will publish its work using the records obtained.

In sum, the requested disclosure is likely to contribute significantly to the public understanding of operations or activities of government and will not be used by NCRC for any commercial interest. NCRC will pay fees that are lawfully charged, but as noted above, a fee waiver is appropriate to cover the entirety of this request. Please inform me if you have a different assessment. In the alternative, a waiver of fees is appropriate because NCRC fits within the definition of a representative of the news media.

NCRC looks forward to your response within 20 working days of the date of your receipt of this request. NCRC would like copies of the requested records in readable electronic form. Access to databases may also be an acceptable format for delivery of the records. Please contact me regarding questions that you may have about appropriate formats.

NCRC seeks expedited review of this FOIA request because of the complexity of the CRA NPR and the short period of time for comment on the complex issues presented in the CRA NPR. If a prompt disclosure of the documents is likely to be delayed for any reason, or if you have any questions about the meaning or scope of the request, please contact me to discuss the matter. I can be reached at the address, email address and phone numbers below my signature.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "Alice Bodley". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Alice Bodley

General Counsel

National Community Reinvestment Coalition

740 – 15th Street, NW

Suite 400

Washington, DC 20015

Email: abodley@ncrc.org

Business Phone: 202-464-2704


Cell Phone: 202-277-4170

EXHIBIT B

Welcome Alice Bodley

Inbox

View Message

To	Select	Request Number	Subject	Message(s)	Date Sent
		Request Number: 2020-00097-F			
	<input checked="" type="checkbox"/>	 2020-00097-F	RE: Status Request	Ms. Bodley, I apologi...	02/11/2020 03:38:41 PM

RE: Status Request

Message(s)*

Ms. Bodley,
I apologize that you have not received a response to your request. However, we are experiencing a backlog and I have other cases ahead of yours. Your request will be processed as soon as possible.

Close

Note: Messages sent/received can also be viewed by clicking the request # in the Request Status grid.

Mark as Read

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EXHIBIT C



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740 15th Street, NW, Suite 400
Washington, DC 20005

February 9, 2020

By Electronic Filing

FDIC, Legal Division
FOIA/PA Group
550 17th Street, N.W
Washington, D.C 20429

Re: Freedom of Information Act Request

To Whom It May Concern:

This is a request under the Freedom of Information Act (FOIA), 5 U.S.C. 552.

The National Community Reinvestment Coalition (NCRC) requests that a copy of the records listed below, or all records containing the information encompassed by the requests below, be provided to NCRC, to my attention at the address or email address following my signature below.

NCRC is a national, 501(c)(3) tax-exempt organization comprised of over 600 grassroots organizations that create opportunities for people to build wealth. We work with community leaders, policymakers and financial institutions to champion fairness and end discrimination in lending, housing and business. The requested information is critical to NCRC's ability to respond fully to the Notice of Proposed Rulemaking published January 9, 2020, 85 Fed. Reg. 1204 ("CRA NPRM"), and is needed to inform the public about the underpinnings of the proposed rule. This is especially critical in light of proposed changes that, in NCRC's view, would undoubtedly have the effect of undermining the central purposes of the Community Reinvestment Act to facilitate retail lending, branching, economic development, affordable housing and support for small business in low- and moderate-income communities.

Records Requested:

All requests concern the application of the Community Reinvestment Act to the FDIC's proposed rule and assessment of financial institutions' level of success or failure in meeting the CRA's underlying statutory purposes of encouraging, requiring or expecting banks to serve communities, as referred to in the CRA NPRM. The time period of the requested records encompasses the period of January 1, 2018 through January 9, 2020, although the underlying sources cited or used in the documents requested in this FOIA request may predate the above stated time period. The page numbers cited below are from the CRA NPRM, 85 Fed. Reg. 1204 .

Jesse Van Tol
Chief Executive Officer

John E. Taylor
President & Founder

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David Adame
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Dan Chen
Catholic Guardian Service

Will Gonzales
Ceiba

Peter Hainley
CASA of Oregon

Charles Harris
Housing Education
& Economic Development

Irvin Henderson
National Trust for Historic Preservation

Matt Hull
Texas Association of Community
Development Corporation

Carol Johnson
Arkansas Fair Housing Commission

Brent Kakesako
Hawaii Alliance for Community-
Based Economic Development

Matthew Lee
Inner City Press

Moises Loza
Housing Assistance Council

Vernice Miller-Travis
Placeholder

Aaron Miripol
Urban Land Conservancy

Andreanecia Morris
HousingNola

Dory Rand
Woodstock Institute

Elisabeth Risch
Metropolitan St. Louis Equal
Housing & Opportunity Council

Arden Shank
Community Reinvestment
Alliance of South Florida

Kevin Stein
California Reinvestment Coalition

Beverly Watts
Tennessee Human Rights Commission

Marceline A. White
Maryland Consumer Rights Coalition

The request follows:

Thresholds and Benchmarks – Are they based on meaningful data?

1. Records reflecting the standards used for the selection of the sample of performance evaluations completed between 2011 and 2018 as referred to in footnote 39 on page 1221 and a list of the performance evaluations used in the sample referred to in the footnote.
2. The data and analysis of the sample of performance evaluations referred to in footnote 39 on page 1221.
3. The data and analysis used to inform the empirical benchmarks used for the CRA performance measure in Section 345.12, page 1260.
4. The data and analysis used to inform the proposed “Retail Lending Distribution Tests” described in Section 345.11 at pages 1259 - 1260, including analysis of the thresholds of 65% and 55% for passing the peer and demographic comparators, respectively, on the borrower distribution and geographic distribution tests of the retail distribution tests.
5. The data and analysis used to inform the threshold referred to on pages 1217-18 for when a bank receives a satisfactory or outstanding rating in a “significant portion” of its assessment areas, defined as “more than 50 percent, of its assessment areas, and in those assessment areas where it holds a significant amount of deposits.”
6. The data and analyses used to inform the threshold for when a bank must delineate a deposit-based assessment area, defined as when a “bank... receives 50 percent or more of its retail domestic deposits from geographic areas outside of its facility-based assessment areas” in proposed Section 345.08(c), page 1258.
7. The data and analysis used to inform the 5% minimum threshold for a deposit-based assessment area in proposed Section 345.08(c), page 1258.

Expansion of What Counts for CRA Credit – Will the new service areas and newly credited activity really help LMI communities?

8. Any estimates or discussion of how many small banks or how many large banks would be required to add new assessment areas based upon the changes addressed on pages 1215 –1216, and in proposed Section 345.08, page 1258 .
9. The data or analysis used to inform the proposed definitions of distressed or underserved census tracts, as discussed on pages 1209-10, and defined in Section 345.03 at page 1254 (“distressed area”) and page 1255 (“underserved area”).
10. The data or analysis used to inform the identification of and/or the quantity of areas that would be considered “high- cost areas” as proposed in Section 345.03 at page 1254.

11. The data or analysis used to inform the proposed definition of “small business,” including the increase in revenue size in Section 345.03 at page 1255, or of a “small farm,” including the increase in revenue size, page 1255.
12. The data or analysis used to inform the proposed increase to the loan size for small loans to businesses, farms, and the increase to the revenue size threshold for small farms, page 1255.
13. Records, including data or analysis, reflecting the proposal to remove from the definition of “community development” the reference to “activities that revitalize or stabilize . . . underserved nonmetropolitan middle-income geographies . . .” and/or the change in the regulatory definition of community development to exclude “economic development” and included “essential infrastructure, page 1213.
14. Records, including data or analysis, reflecting the proposal that affordable housing can be defined as housing for middle income households, included in the list of qualifying activities on page 1231, and proposed in Section 345.04(c)(1)(i)(D) and (E), page 1256.
15. Records, including data or analysis, reflecting the proposal to define “Community development investment” as “a lawful investment, membership share, deposit, legally-binding commitment to invest that is reported on the [Call Report, Schedule RC-L](#)...,” including any information about the impact of this definition on projected levels of investment in LMI communities.

Please provide records in their native electronic formats, including all metadata. As FOIA requires, please release all reasonably segregable nonexempt portions of the records requested. If a record contains both responsive and nonresponsive material, please provide the entire document or all reasonably segregable nonexempt portions thereof. Records should be provided as they are located; it is not appropriate to delay disclosure until all responsive records are identified. Subject to the fee waiver request below, NCRC agrees to pay applicable fees to a limit of \$150. If you deny the fee waiver in whole or in part, please provide an estimate of the fees to be charged prior to undertaking work that will generate fees in excess of the \$150 limit.

Fee Waiver Request

NCRC requests a waiver of fees under 5 U.S.C. 552(a)(4)(A)(iii) because the requested information is in the public interest and will contribute significantly to the public understanding of government operations, including FDIC’s CRA NPRM. The public will benefit immensely from an understanding of the data and analysis underlying

FDIC's proposal. NCRC has a robust public distribution outlet through its website at ncrc.org and is known for its research and analysis. See, e.g., <https://ncrc.org/research/> and <https://ncrc.org/category/press/> (contents incorporated herein as examples of analysis, publication and reach). NCRC will share with the public significant findings from the requested information.

In the alternative, NCRC would be entitled to a fee waiver as a "a representative of the news media," which "means any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience... 'news' means information that is about current events or that would be of current interest to the public." 5 U.S.C. 552(a)(4)(A)(ii). NCRC's full analysis of the proposed rule on CRA will rely upon the underpinnings of that rule, as sought in this FOIA request. The information is of current interest to the public because the proposed rule is subject to a 60-day comment period that commenced upon the publication of the Notice of Proposed Rulemaking in the *Federal Register* on January 9, 2020. Without the information, NCRC, its members and the public will not have access to the basis for FDIC's CRA evaluation framework, applicable to financial institutions throughout the nation. NCRC will incorporate the records obtained into its published work.

In sum, the requested disclosure is likely to contribute significantly to the public understanding of operations or activities of government and will not be used by NCRC for any commercial interest. Moreover, NCRC is entitled to a fee waiver as a representative of the news media.

NCRC looks forward to your response within 20 working days of the date of your receipt of this request.

NCRC respectfully requests accelerated review of this FOIA request because of the complexity of the CRA NPR and the short period of time for comment on the complex issues presented in the CRA NPR. If a prompt disclosure of the documents is likely to be delayed for any reason, or if you have any questions about the meaning or scope of the request, please contact me to discuss the matter. I can be reached at the address, email address and phone numbers below my signature.

Thank you for your consideration of this request.

Sincerely,

Alice L. Bodley

Alice Bodley
General Counsel
National Community Reinvestment Coalition
740 – 15th Street, NW, Suite 740
Washington, DC 20015
Email: abodley@ncrc.org
Business Phone: 202-464-2704

EXHIBIT D



Federal Deposit Insurance Corporation

550 17th Street, NW, Washington, DC 20429-9990

Legal Division

February 12, 2020

Ms. Alice Bodley
General Counsel
National Community Reinvestment Coalition
740 – 15th Street, NW, Suite 740
Washington, District of Columbia 20015

FDIC FOIA Log # 20-0127

Dear Ms. Bodley:

This letter is in partial response to your Freedom of Information Act (FOIA) request dated February 9, 2020, and received by our office on February 10, 2020, seeking the following:

Thresholds and Benchmarks – Are they based on meaningful data?

1. Records reflecting the standards used for the selection of the sample of performance evaluations completed between 2011 and 2018 as referred to in footnote 39 on page 1221 and a list of the performance evaluations used in the sample referred to in the footnote.
2. The data and analysis of the sample of performance evaluations referred to in footnote 39 on page 1221.
3. The data and analysis used to inform the empirical benchmarks used for the CRA performance measure in Section 345.12, page 1260.
4. The data and analysis used to inform the proposed “Retail Lending Distribution Tests” described in Section 345.11 at pages 1259 - 1260, including analysis of the thresholds of 65% and 55% for passing the peer and demographic comparators, respectively, on the borrower distribution and geographic distribution tests of the retail distribution tests.
5. The data and analysis used to inform the threshold referred to on pages 1217-18 for when a bank receives a satisfactory or outstanding rating in a “significant portion” of its assessment areas, defined as “more than 50 percent, of its assessment areas, and in those assessment areas where it holds a significant amount of deposits.”

Ms. Alice Bodley
FOIA Request 20-0127
February 12, 2020

6. The data and analyses used to inform the threshold for when a bank must delineate a deposit-based assessment area, defined as when a “bank... receives 50 percent or more of its retail domestic deposits from geographic areas outside of its facility-based assessment areas” in proposed Section 345.08(c), page 1258.
7. The data and analysis used to inform the 5% minimum threshold for a deposit-based assessment area in proposed Section 345.08(c), page 1258.

Expansion of What Counts for CRA Credit – Will the new service areas and newly credited activity really help LMI communities?

8. Any estimates or discussion of how many small banks or how many large banks would be required to add new assessment areas based upon the changes addressed on pages 1215 –1216, and in proposed Section 345.08, page 1258 .
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10. The data or analysis used to inform the identification of and/or the quantity of areas that would be considered “high- cost areas” as proposed in Section 345.03 at page 1254.
11. The data or analysis used to inform the proposed definition of “small business,” including the increase in revenue size in Section 345.03 at page 1255, or of a “small farm,” including the increase in revenue size, page 1255.
12. The data or analysis used to inform the proposed increase to the loan size for small loans to businesses, farms, and the increase to the revenue size threshold for small farms, page 1255.
13. Records, including data or analysis, reflecting the proposal to remove from the definition of “community development” the reference to “activities that revitalize or stabilize . . . underserved nonmetropolitan middle-income geographies . . .” and/or the change in the regulatory definition of community development to exclude “economic development” and included “essential infrastructure, page 1213.
14. Records, including data or analysis, reflecting the proposal that affordable housing can be defined as housing for middle income households, included in the list of qualifying activities on page 1231, and proposed in Section 345.04(c)(1)(i)(D) and (E), page 1256.

Ms. Alice Bodley
FOIA Request 20-0127
February 12, 2020

15. Records, including data or analysis, reflecting the proposal to define “Community development investment” as “a lawful investment, membership share, deposit, legally-binding commitment to invest that is reported on the [Call Report, Schedule RC-L...](#),” including any information about the impact of this definition on projected levels of investment in LMI communities.

You also asked for expedited processing and a waiver of fees for the processing of your request. Please be advised that your request for expedited processing and a fee waiver have been granted.

If you have any questions concerning this matter, you may contact me by email at mtoland@fdic.gov or by telephone at 703-562-2705.

Sincerely,

/Signed/

Michael J. Toland, Ph.D.
Government Information Specialist
FOIA/Privacy Act Group

EXHIBIT E



Federal Deposit Insurance Corporation

550 17th Street, NW, Washington, DC 20429-9990

Legal Division

March 4, 2020

Ms. Alice Bodley
General Counsel
National Community Reinvestment Coalition
740 – 15th Street, NW, Suite 740
Washington, District of Columbia 20015

FDIC FOIA Log Number 20-0127

Dear Ms. Bodley:

This letter is in further response to your Freedom of Information Act (FOIA) request dated February 9, 2020, and received by our office on February 10, 2020, seeking the following:

Thresholds and Benchmarks – Are they based on meaningful data?

1. Records reflecting the standards used for the selection of the sample of performance evaluations completed between 2011 and 2018 as referred to in footnote 39 on page 1221 and a list of the performance evaluations used in the sample referred to in the footnote.
2. The data and analysis of the sample of performance evaluations referred to in footnote 39 on page 1221.
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4. The data and analysis used to inform the proposed “Retail Lending Distribution Tests” described in Section 345.11 at pages 1259 - 1260, including analysis of the thresholds of 65% and 55% for passing the peer and demographic comparators, respectively, on the borrower distribution and geographic distribution tests of the retail distribution tests.
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6. The data and analyses used to inform the threshold for when a bank must delineate a deposit-based assessment area, defined as when a “bank...

Ms. Alice Bodley
FOIA Request 20-0127
March 4, 2020

receives 50 percent or more of its retail domestic deposits from geographic areas outside of its facility-based assessment areas” in proposed Section 345.08(c), page 1258.

7. The data and analysis used to inform the 5% minimum threshold for a deposit-based assessment area in proposed Section 345.08(c), page 1258.

Expansion of What Counts for CRA Credit – Will the new service areas and newly credited activity really help LMI communities?

8. Any estimates or discussion of how many small banks or how many large banks would be required to add new assessment areas based upon the changes addressed on pages 1215 –1216, and in proposed Section 345.08, page 1258 .
9. The data or analysis used to inform the proposed definitions of distressed or underserved census tracts, as discussed on pages 1209-10, and defined in Section 345.03 at page 1254 (“distressed area”) and page 1255 (“underserved area”).
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12. The data or analysis used to inform the proposed increase to the loan size for small loans to businesses, farms, and the increase to the revenue size threshold for small farms, page 1255.
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15. Records, including data or analysis, reflecting the proposal to define “Community development investment” as “a lawful investment, membership

Ms. Alice Bodley
FOIA Request 20-0127
March 4, 2020

share, deposit, legally-binding commitment to invest that is reported on the [Call Report, Schedule RC-L...](#),” including any information about the impact of this definition on projected levels of investment in LMI communities.

Background

In your request, you also seek expedited processing of your request and a waiver of any fees that may be associated with the processing of the same. By letter dated February 12, 2020, we granted both.

Response

We have considered your request in light of the requirements of the FOIA and the FDIC’s FOIA regulations.¹ Our records search has been completed. Three potentially responsive records (38 pages) were found, which originated with other agencies. One record (five pages) originated with the Office of the Comptroller of the Currency (OCC), while two records (33 pages) originated with the Board of Governors of the Federal Reserve System (FRB). Accordingly, we have referred the former (five pages) to the OCC and the latter (33 pages) to the FRB for disclosure review and direct response to you.

If you would like to pursue your inquiry with OCC or the FRB, you may submit a FOIA request to either of them by following their respective FOIA procedures, located on their web sites at: <http://www.occ.gov/about/contact-us/freedom-of-information-act-requests/index-foia.html>; and https://www.federalreserve.gov/foia/about_foia.htm.

We are now closing our file on your request. You may, of course, submit a new request that meets the requirements of the FOIA and the FDIC’s FOIA regulations at any time.

You may contact me by email at mtoland@fdic.gov or by telephone at 703-562-2705 if you have any questions concerning this matter. You may also contact our FOIA Public Liaison, FDIC Ombudsman M. Anthony Lowe, by email at MLowe@fdic.gov or telephone at 312-382-7552.

Sincerely,

/Signed/

Michael J. Toland, Ph.D.
Government Information Specialist
FOIA/Privacy Act Group

¹ The FDIC’s FOIA regulations and FOIA Fee Schedule are available on our website at the Freedom of Information Act (FOIA) Service Center, <https://www.fdic.gov/about/freedom/index.html>.

CIVIL COVER SHEET

JS-44 (Rev. 6/17 DC)

I. (a) PLAINTIFFS National Community Reinvestment Coalition (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS Office of the Comptroller of the Currency; Federal Deposit Insurance Corporation COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Nitin Shah, Jeffrey Dubner Democracy Forward Foundation 1333 H St NW, 11th Floor Washington, DC 20005 (202) 448-9090	ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY) <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 48%;"> <input type="radio"/> 1 U.S. Government Plaintiff </div> <div style="width: 48%;"> <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 48%;"> <input checked="" type="radio"/> 2 U.S. Government Defendant </div> <div style="width: 48%;"> <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III) </div> </div>	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY! <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
	PTF	DFT		PTF	DFT																				
Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4																				
Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5																				
Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
<input type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil			
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent – Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input checked="" type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multi-district Litigation
 ☐ 7 Appeal to District Judge from Mag. Judge
 ☐ 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 5 U.S.C. § 552 (FOIA). Defendants are in possession of records unlawfully withheld.

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: 4/8/2020	SIGNATURE OF ATTORNEY OF RECORD: /s/ Nitin Shah
----------------	---

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

National Community Reinvestment Coalition

Plaintiff

v.

Office of the Comptroller of the Currency, et al.

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

William Barr, Attorney General of the United States
Office of the Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Nitin Shah
Democracy Forward Foundation
1333 H St NW
Washington, DC 20005

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

National Community Reinvestment Coalition

Plaintiff

v.

Office of the Comptroller of the Currency, et al.

Defendant

)
)
)
)
)
)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Federal Deposit Insurance Corporation
550 17th St NW
Washington, DC 20429

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Nitin Shah
Democracy Forward Foundation
1333 H St NW
Washington, DC 20005

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
<i>Plaintiff</i>)	
)	
v.)	Civil Action No.
)	
_____)	
<i>Defendant</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

National Community Reinvestment Coalition

Plaintiff

v.

Office of the Comptroller of the Currency, et al.

Defendant

)
)
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)
)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Civil Process Clerk
U.S. Attorney's Office for the District of Columbia
555 4th St NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Nitin Shah
Democracy Forward Foundation
1333 H St NW
Washington, DC 20005

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: