

Community Reinvestment Act Regulations, 85 Fed. Reg. 1204 (proposed Jan. 9, 2020) (“Proposed Rule”).

4. In order to develop a better understanding of the process by which OCC developed the proposed regulatory revisions, CRC submitted FOIA requests to OCC seeking information about OCC’s contacts with industry representatives, irregularities involving comments submitted to the rulemaking docket, and communications by OCC about community stakeholders who were participating in the rulemaking process.

5. OCC has failed to comply with CRC’s FOIA requests for records about the Community Reinvestment Act rulemaking. CRC therefore respectfully requests that the Court compel Defendant to comply with the 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 California Reinvestment Coalition is a non-profit organization operating under Section 501(c)(3) of the Internal Revenue Code. CRC is based in San Francisco, California. CRC was founded to aid low-income communities and communities of color in accessing credit, financial services, and investments. With over 300 member organizations across California that provide services to low-income communities and communities of color, CRC works to advance a fair and inclusive economy.

9. Defendant Office of the Comptroller of the Currency is a federal agency within

the meaning of the 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 CRC has requested under the FOIA.

FACTUAL ALLEGATIONS

The First Request

10. On December 11, 2019, CRC, in conjunction with Democracy Forward Foundation, sent a FOIA request to OCC requesting the following records, which relate to the ongoing Community Reinvestment Act rulemaking:

1. All emails related to the revision of the Community Reinvestment Act regulations whose sender and/or recipient fields include one or more email addresses with a top-level domain “.com,” “.org,” or “.edu.” This does not include comments filed in the public rulemaking docket number OCC-2018-0008, “Reforming the Community Reinvestment Act Regulatory Framework.”
2. All records containing or reflecting communications, conversations, complaints, interpretations, decisions or actions taken relating to whether public comments related to the Advanced Notice of Proposed Rulemaking (ANPR) “Reforming the Community Reinvestment Act Regulatory Framework” were fabricated, manufactured, or otherwise not authored by the putative signatory.
3. All records containing or reflecting communications to or from Comptroller Joseph Otting or Deputy Comptroller for Community Affairs Barry Wides concerning or relating to California Reinvestment Coalition (CRC) or the American Banker articles “BankThink: Why is OCC scared of public input?” or “Setting the record straight on CRA reform.”
4. All records containing or reflecting communications from Deputy Comptroller for Community Affairs Barry Wides to persons or entities outside the government seeking corrections of or responding to statements, whether inside or outside the ANPR/rulemaking process, by such persons or entities about the OCC effort to revise the Community Reinvestment Act regulations.

Ex. A. at 1–2 (“First Request”).

11. The time period for the request is September 5, 2018 to the date the search is completed. *Id.* at 2.

12. CRC 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 Id.* at 3–8.

13. OCC assigned the First Request tracking number 2020-00071-F, Ex. B, and granted the request for the fee waiver. Ex. C.

14. On March 24, 2020, CRC agreed to narrow the first prong of its First Request to a specific list of external domains and e-mail addresses. *See Ex. D.*

15. As of the date of this Complaint, OCC has yet to produce any records in response to the First Request.

16. As of the date of this Complaint, OCC has failed to inform CRC whether it will comply with the First Request, produce all requested records, or demonstrate that any responsive documents are lawfully exempt from production. Nor has OCC notified CRC of the scope of any responsive records the agency intends to produce or withhold, and the reasons for any withholdings, or informed CRC that it may appeal any adequately specific, adverse determination.

17. Because OCC has “fail[ed] to comply with the applicable time limit provisions” of the FOIA, CRC is “deemed to have exhausted [its] administrative remedies.” 5 U.S.C.

§ 552(a)(6)(C)(i).

The Second FOIA Request

18. On April 14, 2020, CRC, in conjunction with Democracy Forward Foundation and the National Community Reinvestment Coalition, sent a FOIA request to OCC requesting the following records relating to the ongoing Community Reinvestment Act rulemaking:

1. All memoranda, e-mails, recordings, transcriptions, notes, calendars, and any and all other records from, relating to, or in any way describing the fact or content of the

conversations between Comptroller Otting and bank CEOs about the Community Reinvestment Act rulemaking listed in the OCC memorandum attached hereto.

Ex. E at 1 (“Second Request”). The Second Request attached an OCC memorandum with a log of meetings that Comptroller held with bank CEOs regarding the CRA rulemaking. *Id.* at 9–12.

19. The time period for the Second Request is December 12, 2019 to the date on which the search is completed. *Id.* at 1.

20. CRC 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 Id.* at 2–8.

21. OCC assigned the Second Request tracking number 2020-00200-F and granted the request for a fee waiver. Ex. F.

22. As of the date of this Complaint, OCC has failed to inform CRC whether it will comply with the Second Request, produce all requested records, or demonstrate that any responsive documents are lawfully exempt from production. Nor has OCC notified CRC of the scope of any responsive records the agency intends to produce or withhold, and the reasons for any withholdings, or informed CRC that it may appeal any adequately specific, adverse determination.

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

CLAIMS FOR RELIEF

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

24. CRC repeats and incorporates by reference the foregoing paragraphs as if fully set forth herein.

25. By failing to respond to CRC's First Request within the statutorily prescribed time limit, OCC has violated its duties under the FOIA, 5 U.S.C. § 552, including, but not limited to, its duties to conduct a reasonable search for responsive records, and to produce all responsive, reasonably segregable, non-exempt records.

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

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

27. CRC repeats and incorporates by reference the foregoing paragraphs as if fully set forth herein.

28. By failing to respond to CRC's Second Request within the statutorily prescribed time limit, OCC has violated its duties under the FOIA, 5 U.S.C. § 552, including, but not limited to, its duties to conduct a reasonable search for responsive records, and to produce all responsive, reasonably segregable, non-exempt records.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff CRC respectfully requests that the Court:

1. order Defendant to conduct searches for any and all records responsive to CRC's

- FOIA requests and demonstrate that it employed search methods reasonably likely to lead to the discovery of records responsive to CRC's FOIA requests;
2. order Defendant to produce, by a date certain, any and all non-exempt records responsive to CRC's FOIA requests and a *Vaughn* index of any responsive records withheld under a claim of exemption;
 3. enjoin Defendant from continuing to withhold any and all non-exempt records responsive to CRC's FOIA requests;
 4. grant CRC 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
 5. grant any other relief this Court deems appropriate.

Dated: May 15, 2020

Respectfully submitted,

/s/ Nitin Shah

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EXHIBIT A



December 11, 2019

VIA Electronic Delivery

Chief FOIA Officer
Communications Division
Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

Re: Freedom of Information Act Records Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 *et seq.*, and the Office of the Comptroller of the Currency (OCC) and the Department of the Treasury regulations at 12 C.F.R. Part 4 and 31 C.F.R. Part 1, respectively, Democracy Forward Foundation and California Reinvestment Coalition make the following request for records.

Records Requested

In an effort to understand and explain to the public how OCC is responding to community groups’ concerns with its effort to revise the Community Reinvestment Act regulations,¹ Democracy Forward Foundation and California Reinvestment Coalition request that the OCC produce the following within twenty (20) business days:

1. All emails related to the revision of the Community Reinvestment Act regulations whose sender and/or recipient fields include one or more email addresses with a top-level domain “.com,” “.org,” or “.edu.” This does not include comments filed in the public rulemaking docket number OCC-2018-0008, “Reforming the Community Reinvestment Act Regulatory Framework.”²
2. All records containing or reflecting communications, conversations, complaints, interpretations, decisions or actions taken relating to whether public comments related to the Advanced Notice of Proposed Rulemaking (ANPR) “Reforming the Community Reinvestment Act Regulatory Framework” were fabricated, manufactured, or otherwise not authored by the putative signatory.
3. All records containing or reflecting communications to or from Comptroller Joseph Otting or Deputy Comptroller for Community Affairs Barry Wides concerning or relating

¹ Advanced Notice of Proposed Rulemaking, Reforming Community Reinvestment Act Regulatory Framework, OCC (Sept. 5, 2018), <https://www.regulations.gov/document?D=OCC-2018-0008-0001>.

² Docket Folder, Reforming Community Reinvestment Act Regulatory Framework, OCC (last accessed Dec. 2, 2019), <https://www.regulations.gov/docket?D=OCC-2018-0008>.

to California Reinvestment Coalition (CRC) or the American Banker articles “BankThink Why is OCC scared of public input?”³ or “Setting the record straight on CRA reform.”⁴

4. All records containing or reflecting communications from Deputy Comptroller for Community Affairs Barry Wides to persons or entities outside the government seeking corrections of or responding to statements, whether inside or outside the ANPR/rulemaking process, by such persons or entities about the OCC effort to revise the Community Reinvestment Act regulations.

The timeline for this search is September 5, 2018 to the date the search is completed.

Scope of Search

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See id.* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep’t of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

³ Paulina Gonzalez-Brito, BankThink: Why is OCC scared of public input?, Am. Banker (April 08, 2019), <https://www.americanbanker.com/opinion/why-is-occ-scared-of-public-input>.

⁴ Barry Wides, BankThink: Setting the record straight on CRA reform, Am. Banker (March 25, 2019), <https://www.americanbanker.com/opinion/setting-the-record-straight-on-cra-reform>.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Request for Fee Waiver

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), 12 C.F.R. § 4.17, and 31 C.F.R. § 1.7, Democracy Forward Foundation (DFF) and California Reinvestment Coalition (CRC) request a waiver of all fees associated with processing records for this request. FOIA requires documents to be furnished to requesters at no fee or reduced fees when “if disclosure of the information 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.” 5 U.S.C. § 552(a)(4)(A); *see also* 12 C.F.R. § 4.17(4), 31 C.F.R. § 1.7(k)(1).

The disclosure of records sought by this Request is likely to contribute significantly to the public understanding of the operations or activities of the government.

The OCC has begun the process of taking public comment on revised regulations under the Community Reinvestment Act (CRA). The CRA is a crucial fair lending law designed to combat redlining and encourage financial institutions to meet the credit needs of their communities. In September 2018, the OCC published an Advanced Notice of Proposed Rulemaking to take comment on a new CRA regulatory framework.⁵ The ANPRM received over 1,500 public comments in response. The OCC’s behavior toward commenters, particularly from community groups, has raised significant flags. In January and March 2019 respectively, the OCC Deputy Comptroller for Community Affairs Barry Wides sent a letter to CRC expressing offense at its advocacy around the CRA and published an article that took the unusual step of criticizing commenters that in his view “have not contributed positively to the public discussion” and “opted to distort facts by inaccurately portraying the purpose and content of the ANPR.”⁶ And the following October, Wides again sent a letter to the California Reinvestment Coalition asking CRC to alter its stance on the ANPRM.⁷ This request seeks more information about OCC’s views of community groups like California Reinvestment Coalition, how it decided to take these unusual steps, and whether there are other irregularities in the ANPRM comment process.⁸ The

⁵ Advanced Notice of Proposed Rulemaking, Reforming Community Reinvestment Act Regulatory Framework, OCC (Sept. 5, 2018), <https://www.regulations.gov/document?D=OCC-2018-0008-0001>.

⁶ Letter from Barry Wides, Deputy Comptroller, OCC, to Paulina Gonzalex-Brito, Executive Director, CRC (January 9, 2019), <http://calreinvest.org/wp-content/uploads/2019/03/Wides-Letter-to-CRC.pdf>; Barry Wides, BankThink: Setting the record straight on CRA reform, Am. Banker (March 25, 2019), <https://www.americanbanker.com/opinion/setting-the-record-straight-on-cra-reform>.

⁷ @CalReinvest, Twitter (Oct. 2, 2019), <https://twitter.com/CalReinvest/status/1179491967308185600?s=20>.

⁸ Cf. David Dayen, *The Fake Public Comments Supporting a Bank Merger are Coming from Inside the House*, The Intercept (Sept. 29, 2018), <https://theintercept.com/2018/09/29/joseph-otting-occ-onewest-bank-merger-cit/> (documenting “fake” public comments in a previous OCC notice-and-comment process).

requested records will therefore have a connection that is “direct and clear” to operations or activities of the Federal Government, and because these records will shed new light on this important topic, they also will be “meaningfully informative” about government operations or activities. 31 C.F.R. § 1.7(k)(2).

Democracy Forward Foundation and California Reinvestment Coalition are able to, and regularly do, disseminate Records obtained through FOIA requests to a broad audience of persons interested in the subject matter.

In determining whether a fee waiver is appropriate, courts consider whether a requester has a “demonstrated . . . ability to disseminate the requested information,” *Cause of Action v. F.T.C.*, 799 F.3d 1108, 1116-17 (D.C. Cir. 2015), and whether the requester regularly disseminates records obtained through FOIA to “a reasonably broad audience of persons interested in the subject” of its work. *Carney v. U.S. Dep’t of Justice*, 19 F.3d 807, 814-15 (2d Cir. 1994). FOIA does not require a requester to describe exactly how it intends to disseminate the information requested, as that would require “pointless specificity”; all that is necessary is for a requester to adequately demonstrate its “ability to publicize disclosed information.” *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1314 (D.C. Cir. 2003). In evaluating a fee waiver request, courts consider how a requester actually communicates information collected through FOIA to the public, including press releases or a website where documents received are made available, *see id.*, or whether the requester has a history of “contacts with any major news[] companies” that suggest an ability to disseminate materials of interest through the press. *Larson v. C.I.A.*, 843 F.2d 1481, 1483 (D.C. Cir. 1988) (upholding a denial of a fee waiver to a requester who had failed to identify his relationships with newspaper companies that could disseminate documents).

DFF has a demonstrated ability to disseminate information of public interest requested through FOIA, and intends to publicize records DFF receives that contribute significantly to the public’s understanding of the operations of government.

DFF operates a dedicated communications staff with deep relations with a wide variety of national publications. When DFF obtains materials through FOIA requests that are of significant public interest, DFF’s communications staff regularly works to ensure that these materials and their contents are featured in press articles educating the public about the operation of government; many articles feature additional commentary and analysis from DFF staff about those materials and their relevance to policy issues of public interest.⁹

⁹ See, e.g., Alexander Nazaryan, *Why did right-wing troll Charles C. Johnson meet with Commerce Secretary Wilbur Ross?*, Yahoo News (May 14, 2019), <https://news.yahoo.com/why-did-rightwing-troll-charles-c-johnson-want-to-meet-with-commerce-secretary-wilbur-ross-090000636.html>; Derek Kravitz and Jack Gillum, “Happy to Do It”: *Emails Show Current FAA Chief Coordinated With Ex-Lobbyist Colleagues on Policy*, ProPublica (Mar. 27, 2019), <https://www.propublica.org/article/dan-elwell-current-faa-chief-coordinated-with-ex-lobbyist-colleagues-on-policy>; Hamid Aleaziz, *Emails Show US Border Officials Didn’t Receive “Zero Tolerance” Guidance Until After the Policy Was Enacted*, BuzzFeed News (Feb. 28, 2019), <https://www.buzzfeednews.com/article/hamedaleaziz/zero-tolerance-policy-guidance-dhs-family-separation>; Jonathan Cohn and Jeffrey Young, *Emails Show Trump Administration Was Told Obamacare Ad Cuts Could Hurt Enrollment*, Huffpost (Dec. 17, 2018), https://www.huffingtonpost.com/entry/trump-verma-obamacare-advertising-cut_us_5c115061e4b084b082ff8dba; Madison Pauly, *When the Biggest Prison Company Complained About a California Sanctuary Law, ICE Listened*, Mother Jones (Dec. 7, 2018), <https://www.motherjones.com/politics/2018/12/geo-memo-private-prison-california-immigration/>; Eliza Rellman, ‘Just answer the question and kill this story’: *In internal emails, Heather Nauert*

Additionally, DFF regularly sends press releases and other materials to over 6,000 members of the press and the over 7,000 members on our organization's email list, discussing ongoing legal developments related to executive branch policymaking. These materials often include descriptions and analysis of information obtained by DFF through its FOIA requests.¹⁰ In addition, DFF operates a verified Twitter account with over 6,000 followers, and frequently uses the account to circulate significant documents received through FOIA requests.¹¹

criticized Rex Tillerson's refusal to deny reports that he called Trump a 'moron,' Business Insider (Nov. 2, 2018), <https://www.businessinsider.com/heather-nauert-rex-tillerson-trump-moron-2018-11>; Rebecca Klein, *Lawsuit Accuses Betsy DeVos And Her Deputies Of Being Motivated By Sexism*, HuffPost (Oct. 31, 2018), https://m.huffpost.com/us/entry/us_5bd9ff6ee4b01abe6a1ad4a9; Nick Penzenstadler, *A year after Vegas shooting, ATF emails reveal blame, alarm over bump stocks*, USA Today (Oct. 1, 2018), <https://www.usatoday.com/story/news/2018/10/01/year-after-vegas-shooting-atf-emails-reveal-blame-alarm-over-bump-stocks/1432137002/>; Jessica Kwong, *Ivanka Trump was more than complicit in Obama equal pay rollback-she had a hand in it, watchdog alleges*, Newsweek (Aug. 29, 2018), <https://www.newsweek.com/ivanka-trump-equal-pay-complicit-obama-1093833>; Vera Bergengruen, *New Emails Show What Happens When The Pentagon Has To Scramble To Catch Up To Trump*, BuzzFeed News (July 25, 2018), <https://www.buzzfeednews.com/article/verabergengruen/these-emails-show-what-happens-when-the-white-house-keeps>; Erin Dooley, *Exclusive: Former for-profit college executive shaped Education Department policy that could benefit former employers: Documents*, ABC News (May 15, 2017), <https://abcnews.go.com/US/exclusive-profit-college-executive-shaped-education-department-policy/story?id=55108981>; Heidi Przybyla, *Notes, emails reveal Trump appointees' war to end HHS teen pregnancy program*, NBC News (Mar. 20, 2018), <https://www.nbcnews.com/politics/politics-news/notes-emails-reveal-trump-appointees-war-end-hhs-teen-pregnancy-n857686>; Dominic Holden, *Documents Show The Trump Administration Approved Bump Stocks Before It Opposed Them*, BuzzFeed News (Mar. 22, 2018), <https://www.buzzfeednews.com/article/dominicholden/trump-administration-bump-stocks>; Bernard Condon, *Trump Advisor Denies He Cheered End of Tunnel Funding Deal*, Associated Press (Feb. 13, 2018), available at <https://www.usnews.com/news/business/articles/2018-02-13/trump-adviser-denies-he-cheered-end-of-tunnel-funding-deal>; Celeste Katz, *Interior Department tapped wildfire preparedness funds for Ryan Zinke helicopter tour*, Newsweek (Dec. 29, 2017), <https://www.newsweek.com/ryan-zinke-interior-department-helicopters-wildfires-757857>.

¹⁰ See, e.g., *BREAKING: At Congressional Hearing, Sec. DeVos Confronted With Records Revealing Trump Administration's Unlawful Decision to Permit Federal Funds to Arm Teachers* (Apr. 10, 2019), <https://democracyforward.org/press/breaking-at-congressional-hearing-sec-devos-confronted-with-records-revealing-trump-administrations-unlawful-decision-to-permit-federal-funds-to-arm-teachers/>; *BREAKING: New Evidence Reinforces Claim Trump's Title IX Policy Was Based on Sexist Stereotypes, Rendering it Unconstitutional* (Nov. 1, 2018), <https://democracyforward.org/press/breaking-new-evidence-reinforces-claim-trumps-title-ix-policy-was-based-on-sexist-stereotypes-rendering-it-unconstitutional/>; *On 1-Year Anniversary of Equal Pay Roll Back, New Documents Reveal Ivanka Trump's Role in Trump Administration Decision to Roll Back Protections for Women and Working Families* (Aug. 29, 2018), <https://democracyforward.org/press/on-1-year-anniversary-of-equal-pay-roll-back-new-documents-reveal-ivanka-trumps-role-in-trump-administration-decision-to-roll-back-protections-for-women-and-working-families/>; *Democracy Forward Demands Ethics Investigation into White House Official's Role in Developing Special Drug Pricing Project With Novartis* (July 11, 2018), <https://democracyforward.org/press/democracy-forward-demands-ethics-investigation-into-white-house-officials-role-in-developing-special-drug-pricing-project-with-novartis/>; *BREAKING: New Records Reveal DeVos Senior Advisor And Former For-Profit College Executive Directed Rollback of Protections Against Predatory Student Loans* (May 15, 2018), <https://democracyforward.org/press/breaking-new-records-reveal-devos-senior-advisor-former-profit-college-executive-directed-rollback-protections-predatory-student-loans/>; *BREAKING: New Records Suggest Trump-Appointed Political Officials Drove HHS Decision To End Program Grants That Have Helped Reduce Teen Pregnancy Rates To All-Time Low* (Mar. 20, 2018), <https://democracyforward.org/press/breaking-new-records-suggest-trump-appointed-political-officials-drove-hhs-decision-end-program-grants-helped-reduce-teen-pregnancy-rates-time-low/>.

¹¹ See, e.g., the following tweets and tweet threads from @DemocracyFwd: <https://twitter.com/DemocracyFwd/status/910123899035226112> (Sep. 19, 2017);

DFF's website also houses a great deal of information obtained through its FOIA requests, accessible to the public at no cost. DFF's website logged over 187,000 pageviews in 2018 alone.

DFF frequently incorporates documents received through FOIA into related legal actions brought by DFF on behalf of its clients, and in doing so further publicizes documents received by explaining their legal significance.¹²

Similarly, CRC frequently submits FOIA requests to enhance the public's understanding of the actions of financial regulatory agencies.¹³ It publicizes the government's responses to its requests in its newsletter and on its website. CRC also use this information to further enhance public discourse through comments and communications to various administrative agencies, and through its media work to educate the public, regulatory agencies and policymakers about the plight of vulnerable residents and communities and the need for regulators and legislators to more closely scrutinize financial institution practices.¹⁴

Democracy Forward Foundation and California Reinvestment Coalition are purely noncommercial requesters.

Neither Democracy Forward Foundation nor California Reinvestment Coalition are filing this request to further a commercial interest, and any information disclosed by DFF or CRC as a result of this FOIA request will be disclosed at no cost. A fee waiver would fulfill Congress's legislative intent in amending FOIA. *See Judicial Watch*, 326 F.3d at 1312 ("Congress amended

<https://twitter.com/DemocracyFwd/status/976991060680462336> (Mar. 22, 2018);
<https://twitter.com/DemocracyFwd/status/996480908877271042> (May 15, 2018);
<https://twitter.com/DemocracyFwd/status/998986714105483264> (May 22, 2018);
<https://twitter.com/DemocracyFwd/status/1022870550769754112> (July 27, 2018);
<https://twitter.com/DemocracyFwd/status/1035144352345903105> (Aug. 30, 2018);
<https://twitter.com/DemocracyFwd/status/1053294640382779392> (Oct. 19, 2018);
<https://twitter.com/DemocracyFwd/status/1071105652867690496> (Dec. 7, 2018).

¹² *See, e.g.*, Second Amended Complaint for Injunctive Relief at 31, *SurvJustice, Inc., et al. v. DeVos et al.*, No. 3:18-cv-00535-JSC (N.D. Cal. Oct. 31, 2018), ECF No. 86, reported on in Klein, *supra* n. 4; Memorandum of Law in Support of Plaintiffs' Motion for Preliminary and Permanent Injunction at 14-15, *Healthy Teen Network and Mayor and City Council of Baltimore v. Azar and U.S. Dep't of Health and Human Services*, No. 1:18-cv-00468-CCB (D. Md. Mar. 27, 2018), ECF No. 18-1, reported on in Przybyla, *supra* n. 4.

¹³ *See, e.g.*, *Federal Reverse Mortgage Program Results In Widows Losing Their Homes After Death Of Spouse* (March 12, 2018), <http://calreinvest.org/press-release/federal-reverse-mortgage-program-results-in-widows-losing-their-homes-after-death-of-spouse-2/>; *Fact Sheet: CIT Group's Financial Freedom is Responsible for nearly 40% of HECM Reverse Mortgage Foreclosures*, <http://calreinvest.org/wp-content/uploads/2018/08/CRC20Fact20Sheet20about20Financial20Freedom20Foreclosures20Since20April202009.pdf>; *Fact Sheet: OneWest Bank Expected to Receive Over \$2.4 billion from the FDIC*, <http://calreinvest.org/wp-content/uploads/2018/08/CRC-FDIC-Loss-Share-Fact-Sheet.pdf>.

¹⁴ *See, e.g.*, David Dayen, *The Fake Public Comments Supporting a Bank Merger are Coming from Inside the House*, *The Intercept* (Sept. 29, 2018), <https://theintercept.com/2018/09/29/joseph-otting-occ-onewest-bank-merger-cit/>; David Wharton, *HUD Addresses Concerns About Reverse Mortgage Foreclosures*, *DS News* (March 14, 2018), <https://dsnews.com/daily-dose/03-14-2018/hud-addresses-concerns-reverse-mortgage-foreclosures>; Matthew Goldstein and Alexandra Stevenson, *Trump's Treasury Pick Moves in Secretive Hedge Fund Circles*, *NYT* (Dec. 19, 2016), <https://www.nytimes.com/2016/12/19/business/dealbook/steven-mnuchin-trump-treasury-hedge-funds.html>.

FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters.” (quotation marks omitted)).

Democracy Forward is a representative of the news media.

A representative of the news media is one that “publishes or otherwise disseminates information to the public,” and in particular one that “gathers information from a variety of sources; exercises a significant degree of editorial discretion in deciding what documents to use and how to organize them; devises indices and finding aids; and distributes the resulting work to the public.” *Nat’l Sec. Archive v. US Dep’t of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

Representatives of the news media qualify for a waiver of all fees except “reasonable standard charges for document duplication” as a representative of the news media pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II).

As documented above, DFF extensively disseminates information gathered through FOIA requests to the public, via sharing that information with other news outlets, publishing and sending press releases and other updates to our website and email list, and alerting our followers on social media to new developments in our work, including highlights from documents obtained through FOIA. This process entails a great degree of editorial discretion in deciding which documents to highlight and how to organize them for the public, as our team of lawyers and policy experts carefully examine and build a thorough understanding of the documents we receive from FOIA and their relationship to policies of interest to the public.

Beyond disseminating information to reporters for them to publish, and sharing press releases and updates, Democracy Forward has also sought to disseminate information directly to the public through reports and opinion pieces written by our staff.¹⁵

¹⁵ See, e.g., *A Blueprint for Cronyism: President Trump’s Illegal Infrastructure Plan to Enrich His Friends*, Democracy Forward Foundation (Jan. 30, 2018), <https://democracyforward.org/wp-content/uploads/2018/01/Infrastructure-Report.pdf>; Elana Schor, *Trump critics seize on developer ties to infrastructure plan*, Politico (Jan. 30, 2018), <https://www.politico.com/story/2018/01/30/trump-infrastructure-developers-state-of-union-376326> (press coverage of DFF’s report on White House infrastructure policy); *Airlines and the Trump Administration*, Democracy Forward Foundation (Jan. 11, 2018), <https://democracyforward.org/updates/airlines-and-the-trump-administration/>; Bart Jansen, *Lost bags, airline fees: Protections for travelers rights stall under Trump*, USA Today (Jan. 19, 2018), <https://www.usatoday.com/story/news/2018/01/19/lost-bags-airline-fees-protections-travelers-rights-stall-under-trump/1043879001/> (press coverage utilizing the information DFF organized regarding regulatory changes); *What Has Trump Done on Guns? A Lot.*, Democracy Forward Foundation (Feb. 21, 2018), <https://democracyforward.org/updates/trump-done-guns-lot/>; Christi Parsons, *Trump ‘supportive’ of tougher gun law, but his record suggests that may not mean much*, LA Times (Feb. 20, 2018) (press coverage utilizing the information DFF organized regarding regulatory changes); Anne Harkavy and Farhana Khera, *When the Trump administration lies, it might literally be illegal: Learn about the Information Quality Act*, NY Daily News (Feb. 14, 2019), <https://www.nydailynews.com/opinion/ny-oped-when-the-trump-administration-lies-it-might-literally-be-illegal-20190213-story.html> (piece co-authored by DFF executive director); Meg Uzzell and Rachael Klarman, *Why These Women Are Suing Trump to Help End the Gender Pay Gap*, Teen Vogue (Nov. 28, 2017), <https://www.teenvogue.com/story/women-sue-trump-gender-pay-gap> (piece authored by two DFF staff members).

California Reinvestment Coalition is an “other requester.”

CRC is a nonprofit institution advocating for fair and equal access to banking and other financial services for low-income and communities of color. CRC is a 501(c)(3) non-profit corporation and accordingly falls under the “all other requesters” category. 12 C.F.R. § 4.17(b)(2)(iii).

For all the foregoing reasons, Democracy Forward Foundation and California Reinvestment Coalition qualify for a fee waiver.

Conclusion

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20-day period, please contact Democracy Forward as soon as possible at foia@democracyforward.org.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

Nitin Shah

Democracy Forward Foundation

Kevin Stein

California Reinvestment Coalition

EXHIBIT B



Fwd: Request Acknowledgement by Office of the Comptroller of the Currency - #2020-00071-F

FOIA Requests <foia@democracyforward.org>
To: Cory Hansen <coryhansen@democracyforward.org>

Wed, Dec 11, 2019 at 8:36 AM

FYI

----- Forwarded message -----

From: <foia-pa@occ.treas.gov>

Date: Wed, Dec 11, 2019 at 8:35 AM

Subject: Request Acknowledgement by Office of the Comptroller of the Currency - #2020-00071-F

To: <foia@democracyforward.org>

Dear Nitin Shah,

Your request has been assigned Case Number 2020-00071-F. Please reference this case number in all future communications regarding this request. Keep in mind that processing may take up to 20 business days for completion.

Feel free to call (202) 649-6700 if you have any questions.

Office of the Comptroller of the Currency

EXHIBIT C



Office of the Comptroller of the Currency

Washington, DC 20219

December 18, 2019

Nitin Shah
Democracy Forward Foundation
PO Box 34553
Washington, DC 20043

Dear Mr. Shah:

This is in response to your letter dated December 11, 2019 which was received in my office on December 11, 2019 for processing under the Freedom of Information Act, 5 U.S.C. 552.

You requested the following:

1. All emails related to the revision of the Community Reinvestment Act regulations whose sender and/or recipient fields include one or more email addresses with a top-level domain ".com," ".org," or ".edu." You stated this does not include comments filed in the public rulemaking docket number OCC-2018-0008, "Reforming the Community Reinvestment Act Regulatory Framework."
2. All records containing or reflecting communications, conversations, complaints, interpretations, decisions or actions taken relating to whether public comments related to the Advanced Notice of Proposed Rulemaking (ANPR) "Reforming the Community Reinvestment Act Regulatory Framework" were fabricated, manufactured, or otherwise not authored by the putative signatory.
3. All records containing or reflecting communications to or from Comptroller Joseph Otting or Deputy Comptroller for Community Affairs Barry Wides concerning or relating to California Reinvestment Coalition (CRC) or the American Banker articles "BankThink Why is OCC scared of public input?" or "Setting the record straight on CRA reform."
4. All records containing or reflecting communications from Deputy Comptroller for Community Affairs Barry Wides to persons or entities outside the government seeking corrections of or responding to statements, whether inside or outside the ANPR/rulemaking process, by such persons or entities about the OCC effort to revise the Community Reinvestment Act regulations.

The timeline for this search is September 5, 2018 to December 16, 2019.

Page 2
Nitan Shah

You also requested a fee waiver.

Your request for a fee waiver is granted. We believe the disclosure of the information is in the public interest because it would contribute to public understanding of certain operations and is not already in the public domain.

Sincerely yours,

Frank D. Vance, Jr.

Frank D. Vance, Jr.
Manager, Disclosure Services
& Freedom of Information Act Officer
Communications Division

#2020-00071-F

EXHIBIT D



Nitin Shah <nshah@democracyforward.org>

Fwd: ACKNOWLEDGMENT LETTER: Case No. 2020-00071-F

Settles, Rosalye A <Rosalye.Settles@occ.treas.gov>
To: Nitin Shah <nshah@democracyforward.org>

Tue, Mar 24, 2020 at 3:54 PM

Nitin,

You've memorialized things precisely. Enjoy the rest of your afternoon.

Rosalye

From: Nitin Shah <nshah@democracyforward.org>

Sent: Tuesday, March 24, 2020 3:50 PM

To: Settles, Rosalye A <Rosalye.Settles@occ.treas.gov>

Subject: [EXTERNAL]Re: [EXTERNAL]Re: [EXTERNAL]Re: [EXTERNAL]Fwd: ACKNOWLEDGMENT LETTER: Case No. 2020-00071-F

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Thanks for calling, Rosalye. Indeed there was a miscommunication, and thank you for clearing it up. We certainly do agree to rolling production of documents as review occurs. Just memorializing the other two things we discussed: you'll provide an estimated date of completion once you've had the chance to begin review; and processing the other prongs of our request is also ongoing.

Many thanks again, and best regards,

Nitin

On Tue, Mar 24, 2020 at 3:12 PM Settles, Rosalye A <Rosalye.Settles@occ.treas.gov> wrote:

Nitan,

I'd like to speak with you briefly. I believe there has been a miscommunication. May we arrange a time to talk?

Thank you

From: Nitin Shah <nshah@democracyforward.org>

Sent: Tuesday, March 24, 2020 11:48 AM

To: Settles, Rosalye A <Rosalye.Settles@occ.treas.gov>

Subject: [EXTERNAL]Re: [EXTERNAL]Re: [EXTERNAL]Fwd: ACKNOWLEDGMENT LETTER: Case No. 2020-00071-F

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Dear Rosalye,

Thank you for your response. This represents a substantial narrowing of our original request and we think it should now be manageable. I don't think we will be in a position to further narrow or prioritize. Many thanks for your attention to this matter.

Best,

Nitin Shah

On Tue, Mar 24, 2020 at 11:45 AM Settles, Rosalye A <Rosalye.Settles@occ.treas.gov> wrote:

Good Morning, Nitin

OCC staff are working from home as well.

The list of domains is quite long. Can you prioritize domains? For example, would you be open to searches of a small group at a time, seeing results and then making a decision on moving forward? It is going to take quite some time to review any results as we review page by page, line by line. Happy to discuss.

Rosalye

From: Nitin Shah <nshah@democracyforward.org>

Sent: Tuesday, March 24, 2020 11:23 AM

To: Settles, Rosalye A <Rosalye.Settles@occ.treas.gov>

Subject: [EXTERNAL]Re: [EXTERNAL]Fwd: ACKNOWLEDGMENT LETTER: Case No. 2020-00071-F

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*****CAUTION***: External Email**

Apologies--just noticed a typo. Please use this list instead.

@nationaldiversitycoalition.org	
@naacoalition.org	@naac.org
@operationhope.org	
@aba.com	
@mba.org	
@calbankers.com	

@consumerbankers.com	
@bip.com	@fsroundtable.org
@thecapitolcorps.com	
@jpmorgan.com	
@bofa.com	
@wellsfargo.com	
@citi.com	@citigroup.com
@usbank.com	
@pncbank.com	
@capitalone.com	
@td.com	
@bnymellon.com	@standishmellon.com
@statestreet.com	@ssga.com @jp.statestreet.com
@cnb.com	
@cit.com	@citigroup.com @bankoncit.com
@keybank.com	
@us.mufg.jp	@unionbank.com @ca.mufg.jp
@morganstanley.com	@msfundservices.com
@flagstar.com	
fbautista@naacoalition.org fbautista@naac.org fautistafaith@yahoo.com f.bautista@sandiegoadvertising.net	fbautista@naac.org

rgnaizda@naac.org	
j.bryant@operationhope.org john_bryant@operationhope.org john.bryant@operationhope.org johnbryant@operationhope.org jBryant@operationhope.org jbryant@operationhope.org hopela@aol.com	
ssugarman@mrlp.com	Steven@bancofcal.com Steven.sugarman@bancofcal.com sugram@bancofcal.com s.sugarman@firstpactrustbancorp.com

On Tue, Mar 24, 2020 at 11:20 AM Nitin Shah <nshah@democracyforward.org> wrote:

Dear Rosalye,

I hope that you are doing well. With regard to the first prong of this FOIA request, we were going to get back to you with a list of specific domains and email addresses to search for. Here is the list. Happy to discuss or answer any questions you may have. Since I am now working from home, you can most easily reach me via email and we can arrange a time to talk as needed.

Many thanks,

Nitin Shah

@nationaldiversitycoalition.org	
@naacoalition.org	@naac.org
@operationhope.org	
@aba.com	
@mba.org	
@calbankers.com	
@consumerbankers.com	
@bip.com	@fsroundtable.org

@thecapitolcorps.com	
@jpmorgan.com	
@bofa.com	
@wellsfargo.com	
@citi.com	@citigroup.com
@usbank.com	
@pncbank.com	
@capitalone.com	
@td.com	
@bnymellon.com	@standishmellon.com
@statestreet.com	@ssga.com @jp.statestreet.com
@cnb.com	
@cit.com	@citigroup.com @bankonciti.com
@keybank.com	
@us.mufg.jp	@unionbank.com @ca.mufg.jp
@morganstanley.com	@msfundservices.com
@flagstar.com	
fbautista@naacoalition.org fbautista@naac.org fautistafaith@yahoo.com f.bautista@sandiegoadvertising.net	fbautista@naac.org
rgnaizda@naac.org	
j.bryant@operationhope.org john_bryant@operationhope.org john.bryant@operationhope.org johnbryant@operationhope.org	

j-Bryant@operationhope.org jbryant@operationhope.org
hopela@aol.com

ssugarman@mrlip.com

Steven@bancofcal.com
Steven.sugarman@bancofcal.com
sugram@bancofcal.com
s.sugarman@firstpactrustbancorp.com

On Mon, Dec 30, 2019 at 7:50 PM Nitin Shah <nshah@democracyforward.org> wrote:

Thanks, Rosalye. Have a lovely holiday.

On Mon, Dec 30, 2019, 3:37 PM Settles, Rosalye A <Rosalye.Settles@occ.treas.gov> wrote:

Good Afternoon, Nitin

This email to provide you with an update on searching for documents under item one of your request.

I've spoken with IT staff and sent a request for a search with the email address domains listed in your request. Once I receive a response, I will let you know the volume of emails that resulted.

I'm out of the office from December 31st until January 6th.

Happy New Year.

From: Nitin Shah <nshah@democracyforward.org>

Sent: Monday, December 23, 2019 12:06 PM

To: Settles, Rosalye A <Rosalye.Settles@occ.treas.gov>

Subject: Re: [EXTERNAL]Fwd: ACKNOWLEDGMENT LETTER: Case No. 2020-00071-F

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Thanks so much, Rosalye. Hope you have a lovely holiday.

On Mon, Dec 23, 2019, 12:03 PM Settles, Rosalye A <Rosalye.Settles@occ.treas.gov> wrote:

Hello, Nitin,

Hope you had a pleasant weekend.

I will contact IT for search of potential responsive documents and get back to you.

I am out of the office beginning this afternoon and will return on Monday, December 30th.

Rosalye

From: Nitin Shah <nshah@democracyforward.org>
Sent: Friday, December 20, 2019 2:56 PM
To: Settles, Rosalye A <Rosalye.Settles@occ.treas.gov>
Cc: FOIA Requests <foia@democracyforward.org>; Cory Hansen <coryhansen@democracyforward.org>
Subject: [EXTERNAL]Fwd: ACKNOWLEDGMENT LETTER: Case No. 2020-00071-F

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Rosalye,

I am following up on our telephone conversation from December 18, 2019, in which you asked whether it would be possible to narrow prong 1 of our request to specific outside entities. Here is how we propose to proceed:

We would appreciate having a search run for prong 1 of the request as written--namely, looking for communications regarding the CRA regulatory revision with persons outside the government from any .com, .org, or .edu address. We would appreciate getting a total volume of these potentially responsive records, and then we can decide how to proceed from there depending on the volume. In addition, if there is any way to receive a list at that point of which domains those emails are from (e.g., cato.org, harvard.edu) without having to process them emails ourselves, we could then further narrow our request to specific entities/domains.

I know some of this depends on your IT capabilities, so happy to discuss further.

Thanks, and have a great weekend,

Nitin

----- Forwarded message -----

From: **FOIA Requests** <foia@democracyforward.org>

Date: Wed, Dec 18, 2019 at 3:12 PM

Subject: Fwd: ACKNOWLEDGMENT LETTER: Case No. 2020-00071-F

To: Nitin Shah <nshah@democracyforward.org>, Cory Hansen <coryhansen@democracyforward.org>

----- Forwarded message -----

From: <Rosalye.Settles@occ.treas.gov>

Date: Wed, Dec 18, 2019 at 10:24 AM

Subject: ACKNOWLEDGMENT LETTER: Case No. 2020-00071-F

To: <foia@democracyforward.org>

Dear Nitin Shah:

Attached is your acknowledgement letter for your recent Freedom of Information Act request that was sent to the Office of the Comptroller of the Currency.

Sincerely,

DISCLOSURE SERVICES
Communications Division
Office of the Comptroller of the Currency

--

Nitin Shah

Senior Counsel | Democracy Forward Foundation

202.701.1778 | nshah@democracyforward.org

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--

Nitin Shah

Senior Counsel | Democracy Forward Foundation

202.701.1778 | nshah@democracyforward.org

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Nitin Shah

Senior Counsel | Democracy Forward Foundation

202.701.1778 | nshah@democracyforward.org

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Nitin Shah

Senior Counsel | Democracy Forward Foundation

202.701.1778 | nshah@democracyforward.org

EXHIBIT E



April 14, 2020

VIA Electronic Delivery

Chief FOIA Officer
Communications Division
Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

Re: Freedom of Information Act Records Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., and the Office of the Comptroller of the Currency (OCC) and the Department of the Treasury regulations at 12 C.F.R. Part 4 and 31 C.F.R. Part 1, respectively, Democracy Forward Foundation, on its own behalf and on behalf of its clients the National Community Reinvestment Coalition and the California Reinvestment Coalition (collectively “Requesters”), make the following request for records.

Records Requested

In an effort to understand and explain to the public the communications that Comptroller of the Currency Joseph Otting engaged in with stakeholders during the course of OCC’s effort to revise the Community Reinvestment Act regulations,¹ Requesters request that the OCC produce the following within twenty (20) business days:

1. All memoranda, e-mails, recordings, transcriptions, notes, calendars, and any and all other records from, relating to, or in any way describing the fact or content of the conversations between Comptroller Otting and bank CEOs about the Community Reinvestment Act rulemaking listed in the OCC memorandum attached hereto.²

The search period is December 12, 2019 to the date on which the search is completed.

¹ See Notice of Proposed Rulemaking, Community Reinvestment Act Regulations, OCC, 85 Fed. Reg. 1204 (Jan. 9, 2020), <https://www.federalregister.gov/documents/2020/01/09/2019-27940/community-reinvestment-act-regulations>; Advanced Notice of Proposed Rulemaking, Reforming Community Reinvestment Act Regulatory Framework, OCC (Sept. 5, 2018), <https://www.regulations.gov/document?D=OCC-2018-0008-0001>.

² See Summaries of Comptroller Calls with Bank CEOs, OCC (April 8, 2020), <https://www.regulations.gov/document?D=OCC-2018-0008-2668>.

Scope of Search

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See id.* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep't of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Request for Fee Waiver

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), 12 C.F.R. § 4.17, and 31 C.F.R. § 1.7, Requesters request a waiver of all fees associated with processing records for this request. FOIA requires documents to be furnished to requesters at no fee or reduced fees when “if disclosure of the information 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.” 5 U.S.C. § 552(a)(4)(A); *see also* 12 C.F.R. § 4.17(4), 31 C.F.R. § 1.7(k)(1).

The disclosure of records sought by this Request is likely to contribute significantly to the public understanding of the operations or activities of the government.

In January, the OCC published a Notice of Proposed Rulemaking to revise the Community Reinvestment Act regulations.³ During the comment period, it was reported that the Comptroller of the Currency had been contacting banking industry executives to solicit their feedback and support regarding the Proposed Rule.⁴ OCC has only published generic, cursory descriptions of these conversations.⁵ These extremely short, general descriptions are insufficient to afford the public a meaningful opportunity to evaluate the Notice of Proposed Rulemaking in light of the Comptroller's discussions with key stakeholders, and raise serious concerns regarding OCC's compliance with its obligation under the Administrative Procedure Act to engage in a public process.⁶ The requested records therefore have a connection that is "direct and clear" to operations or activities of the Federal Government, and because these records will shed new light on this important topic, they also will be "meaningfully informative" about government operations or activities. 31 C.F.R. § 1.7(k)(2).

Requesters are able to, and regularly do, disseminate Records obtained through FOIA requests to a broad audience of persons interested in the subject matter.

In determining whether a fee waiver is appropriate, courts consider whether a requester has a "demonstrated . . . ability to disseminate the requested information," *Cause of Action v. F.T.C.*, 799 F.3d 1108, 1116-17 (D.C. Cir. 2015), and whether the requester regularly disseminates records obtained through FOIA to "a reasonably broad audience of persons interested in the subject" of its work. *Carney v. U.S. Dep't of Justice*, 19 F.3d 807, 814-15 (2d Cir. 1994). FOIA does not require a requester to describe exactly how it intends to disseminate the information requested, as that would require "pointless specificity"; all that is necessary is for a requester to adequately demonstrate its "ability to publicize disclosed information." *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1314 (D.C. Cir. 2003). In evaluating a fee waiver request, courts consider how a requester actually communicates information collected through FOIA to the public, including press releases or a website where documents received are made available, *see id.*, or whether the requester has a history of "contacts with any major news[] companies" that suggest an ability to disseminate materials of interest through the press. *Larson v. C.I.A.*, 843 F.2d 1481, 1483 (D.C. Cir. 1988) (upholding a denial of a fee waiver to a requester who had failed to identify his relationships with newspaper companies that could disseminate documents).

³ *See supra* n.1.

⁴ *See* Andrew Ackerman, Bank CEOs Courted By Regulator On Low-Income Lending Overhaul, Wall St. J. (Feb. 21, 2020), <https://www.wsj.com/articles/top-u-s-regulator-said-to-lobby-bank-ceos-on-overhaul-of-low-income-lending-rules-11582309318>.

⁵ *See* Summaries of Comptroller Calls with Bank CEOs, *supra* n. 02 ("Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed transition periods and treatment mortgage origination in the proposal.").

⁶ *See* Letter from California Reinvestment Coalition and National Community Reinvestment Coalition to Comptroller Otting, Re: Community Reinvestment Act Regulations, Docket ID OCC-2018-0008 (March 17, 2020), <https://www.regulations.gov/document?D=OCC-2018-0008-2238>.

Democracy Forward Foundation

Democracy Forward Foundation (“DFF”) has a demonstrated ability to disseminate information of public interest requested through FOIA, and intends to publicize records DFF receives that contribute significantly to the public’s understanding of the operations of government.

DFF operates a dedicated communications staff with deep relations with a wide variety of national publications. When DFF obtains materials through FOIA requests that are of significant public interest, DFF’s communications staff regularly works to ensure that these materials and their contents are featured in press articles educating the public about the operation of government; many articles feature additional commentary and analysis from DFF staff about those materials and their relevance to policy issues of public interest.⁷

Additionally, DFF regularly sends press releases and other materials to over 6,000 members of the press and the over 7,000 members on our organization’s email list, discussing ongoing legal

⁷ See, e.g., Alexander Nazaryan, *Why did right-wing troll Charles C. Johnson meet with Commerce Secretary Wilbur Ross?*, Yahoo News (May 14, 2019), <https://news.yahoo.com/why-did-rightwing-troll-charles-c-johnson-want-to-meet-with-commerce-secretary-wilbur-ross-090000636.html>; Derek Kravitz and Jack Gillum, *“Happy to Do It”: Emails Show Current FAA Chief Coordinated With Ex-Lobbyist Colleagues on Policy*, ProPublica (Mar. 27, 2019), <https://www.propublica.org/article/dan-elwell-current-faa-chief-coordinated-with-ex-lobbyist-colleagues-on-policy>; Hamid Aleaziz, *Emails Show US Border Officials Didn’t Receive “Zero Tolerance” Guidance Until After the Policy Was Enacted*, BuzzFeed News (Feb. 28, 2019), <https://www.buzzfeednews.com/article/hamedaleaziz/zero-tolerance-policy-guidance-dhs-family-separation>; Jonathan Cohn and Jeffrey Young, *Emails Show Trump Administration Was Told Obamacare Ad Cuts Could Hurt Enrollment*, Huffpost (Dec. 17, 2018), https://www.huffingtonpost.com/entry/trump-verma-obamacare-advertising-cut_us_5c115061e4b084b082ff8dba; Madison Pauly, *When the Biggest Prison Company Complained About a California Sanctuary Law, ICE Listened*, Mother Jones (Dec. 7, 2018), <https://www.motherjones.com/politics/2018/12/geo-memo-private-prison-california-immigration/>; Eliza Rellman, *‘Just answer the question and kill this story’: In internal emails, Heather Nauert criticized Rex Tillerson’s refusal to deny reports that he called Trump a ‘moron,’* Business Insider (Nov. 2, 2018), <https://www.businessinsider.com/heather-nauert-rex-tillerson-trump-moron-2018-11>; Rebecca Klein, *Lawsuit Accuses Betsy DeVos And Her Deputies Of Being Motivated By Sexism*, HuffPost (Oct. 31, 2018), https://m.huffpost.com/us/entry/us_5bd9ff6ee4b01abe6a1ad4a9; Nick Penzenstadler, *A year after Vegas shooting, ATF emails reveal blame, alarm over bump stocks*, USA Today (Oct. 1, 2018), <https://www.usatoday.com/story/news/2018/10/01/year-after-vegas-shooting-atf-emails-reveal-blame-alarm-over-bump-stocks/1432137002/>; Jessica Kwong, *Ivanka Trump was more than complicit in Obama equal pay rollback—she had a hand in it, watchdog alleges*, Newsweek (Aug. 29, 2018), <https://www.newsweek.com/ivanka-trump-equal-pay-complicit-obama-1093833>; Vera Bergengruen, *New Emails Show What Happens When The Pentagon Has To Scramble To Catch Up To Trump*, BuzzFeed News (July 25, 2018), <https://www.buzzfeednews.com/article/verabergengruen/these-emails-show-what-happens-when-the-white-house-keeps>; Erin Dooley, *Exclusive: Former for-profit college executive shaped Education Department policy that could benefit former employers: Documents*, ABC News (May 15, 2017), <https://abcnews.go.com/US/exclusive-profit-college-executive-shaped-education-department-policy/story?id=55108981>; Heidi Przybyla, *Notes, emails reveal Trump appointees’ war to end HHS teen pregnancy program*, NBC News (Mar. 20, 2018), <https://www.nbcnews.com/politics/politics-news/notes-emails-reveal-trump-appointees-war-end-hhs-teen-pregnancy-n857686>; Dominic Holden, *Documents Show The Trump Administration Approved Bump Stocks Before It Opposed Them*, BuzzFeed News (Mar. 22, 2018), <https://www.buzzfeednews.com/article/dominicholden/trump-administration-bump-stocks>; Bernard Condon, *Trump Advisor Denies He Cheered End of Tunnel Funding Deal*, Associated Press (Feb. 13, 2018), available at <https://www.usnews.com/news/business/articles/2018-02-13/trump-adviser-denies-he-cheered-end-of-tunnel-funding-deal>; Celeste Katz, *Interior Department tapped wildfire preparedness funds for Ryan Zinke helicopter tour*, Newsweek (Dec. 29, 2017), <https://www.newsweek.com/ryan-zinke-interior-department-helicopters-wildfires-757857>.

developments related to executive branch policymaking. These materials often include descriptions and analysis of information obtained by DFF through its FOIA requests.⁸ In addition, DFF operates a verified Twitter account with over 6,000 followers, and frequently uses the account to circulate significant documents received through FOIA requests.⁹

DFF's website also houses a great deal of information obtained through its FOIA requests, accessible to the public at no cost. DFF's website logged over 187,000 pageviews in 2018 alone.

DFF frequently incorporates documents received through FOIA into related legal actions brought by DFF on behalf of its clients, and in doing so further publicizes documents received by explaining their legal significance.¹⁰

⁸ See, e.g., *BREAKING: At Congressional Hearing, Sec. DeVos Confronted With Records Revealing Trump Administration's Unlawful Decision to Permit Federal Funds to Arm Teachers* (Apr. 10, 2019), <https://democracyforward.org/press/breaking-at-congressional-hearing-sec-devos-confronted-with-records-revealing-trump-administrations-unlawful-decision-to-permit-federal-funds-to-arm-teachers/>; *BREAKING: New Evidence Reinforces Claim Trump's Title IX Policy Was Based on Sexist Stereotypes, Rendering it Unconstitutional* (Nov. 1, 2018), <https://democracyforward.org/press/breaking-new-evidence-reinforces-claim-trumps-title-ix-policy-was-based-on-sexist-stereotypes-rendering-it-unconstitutional/>; *On 1-Year Anniversary of Equal Pay Roll Back, New Documents Reveal Ivanka Trump's Role in Trump Administration Decision to Roll Back Protections for Women and Working Families* (Aug. 29, 2018), <https://democracyforward.org/press/on-1-year-anniversary-of-equal-pay-roll-back-new-documents-reveal-ivanka-trumps-role-in-trump-administration-decision-to-roll-back-protections-for-women-and-working-families/>; *Democracy Forward Demands Ethics Investigation into White House Official's Role in Developing Special Drug Pricing Project With Novartis* (July 11, 2018), <https://democracyforward.org/press/democracy-forward-demands-ethics-investigation-into-white-house-officials-role-in-developing-special-drug-pricing-project-with-novartis/>; *BREAKING: New Records Reveal DeVos Senior Advisor And Former For-Profit College Executive Directed Rollback of Protections Against Predatory Student Loans* (May 15, 2018), <https://democracyforward.org/press/breaking-new-records-reveal-devos-senior-advisor-former-profit-college-executive-directed-rollback-protections-predatory-student-loans/>; *BREAKING: New Records Suggest Trump-Appointed Political Officials Drove HHS Decision To End Program Grants That Have Helped Reduce Teen Pregnancy Rates To All-Time Low* (Mar. 20, 2018), <https://democracyforward.org/press/breaking-new-records-suggest-trump-appointed-political-officials-drove-hhs-decision-end-program-grants-helped-reduce-teen-pregnancy-rates-time-low/>.

⁹ See, e.g., the following tweets and tweet threads from @DemocracyFwd: <https://twitter.com/DemocracyFwd/status/910123899035226112> (Sep. 19, 2017); <https://twitter.com/DemocracyFwd/status/976991060680462336> (Mar. 22, 2018); <https://twitter.com/DemocracyFwd/status/996480908877271042> (May 15, 2018); <https://twitter.com/DemocracyFwd/status/998986714105483264> (May 22, 2018); <https://twitter.com/DemocracyFwd/status/1022870550769754112> (July 27, 2018); <https://twitter.com/DemocracyFwd/status/1035144352345903105> (Aug. 30, 2018); <https://twitter.com/DemocracyFwd/status/1053294640382779392> (Oct. 19, 2018); <https://twitter.com/DemocracyFwd/status/1071105652867690496> (Dec. 7, 2018).

¹⁰ See, e.g., Second Amended Complaint for Injunctive Relief at 31, *SurvJustice, Inc., et al. v. DeVos et al.*, No. 3:18-cv-00535-JSC (N.D. Cal. Oct. 31, 2018), ECF No. 86, reported on in Klein, *supra* n. 4; Memorandum of Law in Support of Plaintiffs' Motion for Preliminary and Permanent Injunction at 14-15, *Healthy Teen Network and Mayor and City Council of Baltimore v. Azar and U.S. Dep't of Health and Human Services*, No. 1:18-cv-00468-CCB (D. Md. Mar. 27, 2018), ECF No. 18-1, reported on in Przybyla, *supra* n. 4.

National Community Reinvestment Coalition

National Community Reinvestment Coalition (“NCRC”) has a robust public distribution outlet through its website at ncrc.org and is known for its research and analysis. NCRC routinely publishes information for the public, shares information with the press and is regularly cited in articles published by national, regional, local and trade news organizations.¹¹ NCRC routinely shares information and statements with roughly 1,000 press contacts, through newsletters and messages sent to roughly 35,000 email contacts, and by publishing for NCRC’s online audiences at ncrc.org¹² and through social media.¹³ NCRC will share with the public significant findings from the requested records.

California Reinvestment Coalition

California Reinvestment Coalition (“CRC”) frequently submits FOIA requests to enhance the public’s understanding of the actions of financial regulatory agencies.¹⁴ It publicizes the

¹¹ Examples of NCRC being cited, quoted, or published in the news media on matters pertaining to the Community Reinvestment Act include: Steve Dubb, *Will Federal Regulators Gut Community Development under Cover of COVID?*, Nonprofit Quarterly (Apr. 8, 2020), [https://nonprofitquarterly.org/will-federal-regulators-gut-community-development-under-cover-of-covid/?mc_cid=01a51ac018&mc_eid=\[UNIQID\]](https://nonprofitquarterly.org/will-federal-regulators-gut-community-development-under-cover-of-covid/?mc_cid=01a51ac018&mc_eid=[UNIQID]); Jesse Van Tol & Jaime Weisberg, *This is no time for CRA reform*, American Banker (Apr. 8, 2020), <https://www.americanbanker.com/opinion/this-is-no-time-for-cra-reform>; Jesse Van Tol, *Mission, Money & Markets: Changes to Little-Known Banking Law Could Suck Billions Out of Poorer Communities*, Kresge Foundation (Mar. 18, 2020) <https://kresge.org/content/mission-money-markets-changes-little-known-banking-law-could-suck-billions-out-poorer>; *Trump’s deregulation push takes a new aim. A Fed board member is pushing back.*, Wash. Post. (Jan. 28, 2020), https://www.washingtonpost.com/opinions/trumps-deregulation-push-takes-a-new-aim-a-fed-board-member-is-pushing-back/2020/01/28/403c2d7a-3e11-11ea-8872-5df698785a4e_story.html; *Changing Rules to Help Bankers and Hurt Poor Neighborhoods*, N.Y. Times (Jan. 10, 2020), <https://www.nytimes.com/2020/01/10/opinion/Community-Reinvestment-Act.html>.

¹² See <https://ncrc.org/research/> and <https://ncrc.org/category/press/> (contents incorporated herein as examples of analysis, publication and reach). Examples of press releases to enhance public knowledge of the Community Reinvestment Act include: *NCRC Submits Comment Letters on Proposed Changes to CRA* (Apr. 9, 2020), <https://ncrc.org/ncrc-submits-comment-letters-on-proposed-changes-to-cra/>; *Study: Proposed Rule Changes to CRA Could Encourage Neglect of Entire Markets By Big Banks* (Mar. 26, 2020), <https://ncrc.org/study-proposed-rule-changes-to-cra-could-encourage-neglect-of-entire-markets-by-big-banks/>; *Study: Proposed Rule Changes to CRA Would Let Banks Lend Less To LMI Borrowers And Communities* (Mar. 9, 2020), <https://ncrc.org/study-proposed-rule-changes-to-cra-would-let-banks-lend-less-to-lmi-borrowers-and-communities/>.

¹³ Examples of NCRC’s use of social media to enhance public knowledge of CRA-related matters include: <https://twitter.com/NCRC/status/1247574399420641280> (Apr. 7, 2020); <https://twitter.com/NCRC/status/1243248284556296198> (Mar. 26, 2020); <https://twitter.com/NCRC/status/1243241311815249922> (Mar. 26, 2020); <https://twitter.com/NCRC/status/1243239801589022720> (Mar. 26, 2020); <https://twitter.com/NCRC/status/1215364876174077961> (Jan. 9, 2020); <https://twitter.com/NCRC/status/1187431566919819264> (Oct. 24, 2019); <https://twitter.com/NCRC/status/1248331787392241677> (Apr. 9, 2020); <https://twitter.com/NCRC/status/1247954328201113600> (Apr. 8, 2020)

¹⁴ See, e.g., *Federal Reverse Mortgage Program Results In Widows Losing Their Homes After Death Of Spouse* (March 12, 2018), <http://calreinvest.org/press-release/federal-reverse-mortgage-program-results-in-widows-losing-their-homes-after-death-of-spouse-2/>; *Fact Sheet: CIT Group’s Financial Freedom is Responsible for nearly 40% of HECM Reverse Mortgage Foreclosures*, <http://calreinvest.org/wp-content/uploads/2018/08/CRC20Fact20Sheet20>

government's responses to its requests in its newsletter and on its website. CRC also uses this information to further enhance public discourse through comments and communications to various administrative agencies, and through its media work to educate the public, regulatory agencies, and policymakers about the plight of vulnerable residents and communities and the need for regulators and legislators to more closely scrutinize financial institution practices.¹⁵

Requesters are purely noncommercial requesters.

Requesters are not filing this request to further a commercial interest, and any information disclosed by Requesters as a result of this FOIA request will be disclosed at no cost. A fee waiver would fulfill Congress's legislative intent in amending FOIA. *See Judicial Watch*, 326 F.3d at 1312 ("Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters." (quotation marks omitted)).

Democracy Forward is a representative of the news media.

A representative of the news media is one that "publishes or otherwise disseminates information to the public," and in particular one that "gathers information from a variety of sources; exercises a significant degree of editorial discretion in deciding what documents to use and how to organize them; devises indices and finding aids; and distributes the resulting work to the public." *Nat'l Sec. Archive v. US Dep't of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989).

Representatives of the news media qualify for a waiver of all fees except "reasonable standard charges for document duplication" as a representative of the news media pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II).

As documented above, DFF extensively disseminates information gathered through FOIA requests to the public, via sharing that information with other news outlets, publishing and sending press releases and other updates to our website and email list, and alerting our followers on social media to new developments in our work, including highlights from documents obtained through FOIA. This process entails a great degree of editorial discretion in deciding which documents to highlight and how to organize them for the public, as our team of lawyers and policy experts carefully examine and build a thorough understanding of the documents we receive from FOIA and their relationship to policies of interest to the public.

about20Financial20Freedom20Foreclosures20Since20April202009.pdf; Fact Sheet: OneWest Bank Expected to Receive Over \$2.4 billion from the FDIC, <http://calreinvest.org/wp-content/uploads/2018/08/CRC-FDIC-Loss-Share-Fact-Sheet.pdf>.

¹⁵ See, e.g., David Dayen, *The Fake Public Comments Supporting a Bank Merger are Coming from Inside the House*, *The Intercept* (Sept. 29, 2018), <https://theintercept.com/2018/09/29/joseph-otting-occ-onewest-bank-merger-cit/>; David Wharton, *HUD Addresses Concerns About Reverse Mortgage Foreclosures*, *DS News* (March 14, 2018), <https://dsnews.com/daily-dose/03-14-2018/hud-addresses-concerns-reverse-mortgage-foreclosures>; Matthew Goldstein and Alexandra Stevenson, *Trump's Treasury Pick Moves in Secretive Hedge Fund Circles*, *NYT* (Dec. 19, 2016), <https://www.nytimes.com/2016/12/19/business/dealbook/steven-mnuchin-trump-treasury-hedge-funds.html>.

Beyond disseminating information to reporters for them to publish, and sharing press releases and updates, Democracy Forward has also sought to disseminate information directly to the public through reports and opinion pieces written by our staff.¹⁶

CRC and NCRC are “other requesters” under applicable FOIA regulations.

CRC and NCRC are nonprofit institutions advocating for fair and equal access to banking and other financial services for low-income and communities of color. CRC and NCRC are 501(c)(3) non-profit corporations and accordingly fall under the “all other requesters” category. 12 C.F.R. § 4.17(b)(2)(iii).

For all the foregoing reasons, Requesters qualify for a fee waiver.

Conclusion

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20-day period, please contact Democracy Forward as soon as possible at foia@democracyforward.org. We appreciate your assistance and look forward to your prompt response.

Sincerely,

/s/ Nitin Shah

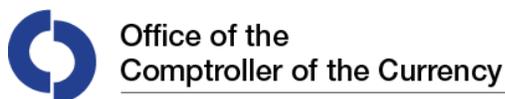
Nitin Shah

Jeffrey Dubner

Counsel for Requesters Democracy Forward Foundation, National Community Reinvestment Coalition, and California Reinvestment Coalition

Attachment: OCC Memorandum, “Summaries of Comptroller Calls with Bank CEOs”

¹⁶ See, e.g., *A Blueprint for Cronyism: President Trump’s Illegal Infrastructure Plan to Enrich His Friends*, Democracy Forward Foundation (Jan. 30, 2018), <https://democracyforward.org/wp-content/uploads/2018/01/Infrastructure-Report.pdf>; Elana Schor, *Trump critics seize on developer ties to infrastructure plan*, Politico (Jan. 30, 2018), <https://www.politico.com/story/2018/01/30/trump-infrastructure-developers-state-of-union-376326> (press coverage of DFF’s report on White House infrastructure policy); *Airlines and the Trump Administration*, Democracy Forward Foundation (Jan. 11, 2018), <https://democracyforward.org/updates/airlines-and-the-trump-administration/>; Bart Jansen, *Lost bags, airline fees: Protections for travelers rights stall under Trump*, USA Today (Jan. 19, 2018), <https://www.usatoday.com/story/news/2018/01/19/lost-bags-airline-fees-protections-travelers-rights-stall-under-trump/1043879001/> (press coverage utilizing the information DFF organized regarding regulatory changes); *What Has Trump Done on Guns? A Lot.*, Democracy Forward Foundation (Feb. 21, 2018), <https://democracyforward.org/updates/trump-done-guns-lot/>; Christi Parsons, *Trump ‘supportive’ of tougher gun law, but his record suggests that may not mean much*, LA Times (Feb. 20, 2018) (press coverage utilizing the information DFF organized regarding regulatory changes); Anne Harkavy and Farhana Khera, *When the Trump administration lies, it might literally be illegal: Learn about the Information Quality Act*, NY Daily News (Feb. 14, 2019), <https://www.nydailynews.com/opinion/ny-oped-when-the-trump-administration-lies-it-might-literally-be-illegal-20190213-story.html> (piece co-authored by DFF executive director); Meg Uzzell and Rachael Klarman, *Why These Women Are Suing Trump to Help End the Gender Pay Gap*, Teen Vogue (Nov. 28, 2017), <https://www.teenvogue.com/story/women-sue-trump-gender-pay-gap> (piece authored by two members of DFF’s staff).



MEMORANDUM

Summaries of Comptroller Calls with Bank CEOs

Date: 1-22-20

Participants: Comptroller and Andy Cecere, CEO of US Bank

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed transition periods and treatment mortgage origination in the proposal.

Date: 1-23-20

Participants: Comptroller and Greg Braca, CEO of TD Bank

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed treatment mortgage origination, standby letter of credits, and the record keeping/reporting requirements in the proposal.

Date: 1-23-20

Participants: Comptroller and Bruce Van Saun, CEO of Citizens Bank

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed treatment the balance sheet value approach and record keeping/reporting requirements in the proposal.

Date: 1-23-20

Participants: Comptroller and Greg Carmichael, CEO of 5/3 Bank

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed assessment areas, clarity of what qualifies, and the record keeping/reporting requirements in the proposal.

Date: 1-24-20

Participants: Comptroller and Tim Wennes, CEO of Santanter Bank

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed the record keeping/reporting requirements in the proposal.

Date: 1-24-20

Participants: Comptroller and Charlie Scharf, CEO of Wells Fargo

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed treatment mortgage origination in the proposal.

Date: 1-24-20

Participants: Comptroller and Steve Cummings, CEO of MUFG

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed the record keeping/reporting requirements in the proposal.

Date: 1-24-20

Participants: Comptroller and Chris Carey, CEO of City National Bank

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal.

Date: 1-24-20

Participants: Comptroller and Beth Mooney, CEO of Key Bank

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed the importance of examiner judgement and timely feedback on exams.

Date: 1-24-20

Participants: Comptroller and Richard Fairbank, CEO of Capital One

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed treatment mortgage origination in the proposal and impact of proposal on major market areas.

Date: 1-24-20

Participants: Comptroller and Steve Steinour, CEO of Huntington Bank

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed the general need for reform and the balance sheet value approach in the proposal.

Date: 1-24-20

Participants: Comptroller and David Casper, CEO of BMO

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed the general need for reform and clarity of CRA.

Date: 1-27-20

Participants: Comptroller and Brian Moynihan, CEO of Bank of America

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed implementation costs and the treatment of different types of deposits under the proposal.

Date: 1-27-20

Participants: Comptroller and Bill Demchak, CEO of PNC

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed the treatment of tax credits, housing credits, and syndications under the proposal.

Date: 1-27-20

Participants: Comptroller and James Gorman, CEO of Morgan Stanely

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed the need of retaining strategic plans in the proposal.

Date: 1-30-20

Participants: Comptroller and Mike Corbat, CEO of Citi

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed credit for activities outside of an assessment area.

Date: 1-31-20

Participants: Comptroller and Jamie Dimon, CEO of JPMC

Summary: Comptroller provided a summary of the NPR and the four key areas of reform and the mischaracterizations that exists about the proposal. They also discussed the objectivity of CRA reform.

EXHIBIT F



Office of the Comptroller of the Currency

Washington, DC 20219

April 15, 2020

Nitin Shah
Democracy Forward Foundation
PO Box 34553
Washington, DC 20043

Dear Nitin Shah:

The purpose of this letter is to acknowledge receipt of your recent request for information from the Office of the Comptroller of the Currency. Your request dated April 14, 2020 was received in my office on April 14, 2020. Your letter has been given the identification number 2020-00200-F, and assigned to Rosalye Settles, 202-649-6768. If your request is unclear or we encounter problems processing it, the assigned specialist will contact you.

You requested all memoranda, e-mails, recordings, transcriptions, notes, calendars, and any and all other records from, relating to, or in any way describing the fact or content of the conversations between Comptroller Otting and bank CEOs about the Community Reinvestment Act rulemaking. The search period of your request is December 12, 2019 to April 14, 2020.

You also requested a fee waiver. Your request for a fee waiver is granted.

Normal turnaround time is within 20 business days from the date of receipt. The due date for your request is May 12, 2020. If any documents are released as a result of your request, the following standard charges will apply:

Rest assured that we will do our best to process your request in a timely fashion.

Sincerely yours,

Frank D. Vance, Jr.

Frank D. Vance, Jr.
Manager, Disclosure Services
& Freedom of Information Act Officer
Communications Division

<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 (Freedom of Information Act). Defendant is unlawfully withholding public records.

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: 5/15/20	SIGNATURE OF ATTORNEY OF RECORD: /s/ Nitin Shah
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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**

California Reinvestment Coalition

Plaintiff

v.

Office of the Comptroller of the Currency

Defendant

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)
)
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)

Civil Action No.

SUMMONS IN A CIVIL ACTION

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

Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

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
P.O. Box 34553
Washington, DC 20043

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:

Civil Action No. _____

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_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify):* _____

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