

# NATIONAL CHILDREN'S FACILITIES NETWORK

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April 8, 2020

Chief Counsel's Office  
Attention: Comment Processing  
Office of the Comptroller of the Currency  
400 7th Street, SW., Suite 3E-218,  
Washington, DC 20219

Robert E. Feldman, Executive Secretary  
Attention: Comments RIN 3064-AF22  
Federal Deposit Insurance Corporation  
550 17th Street NW  
Washington, DC 20429

**RE: Community Reinvestment Act Regulations**  
OCC Docket ID OCC-2018-0008  
FDIC RIN 3064-AF22

To Whom It May Concern:

The National Children's Facilities Network (NCFN) is pleased to respond to the joint notice of proposed rulemaking on Community Reinvestment Act (CRA) Regulations. NCFN is a coalition of nonprofit Community Development Financial Institutions (CDFIs), financial and technical assistance intermediaries, and early care and education (ECE) stakeholders dedicated to helping low-income child care, Pre-K and Head Start providers plan, develop, and finance facilities, and build business operating capacity. We seek to expand equitable access to high-quality programs and support working families by providing technical assistance and financing to early learning providers to address capital needs.

CDFIs and other ECE intermediaries – many of whom are NCFN members – creatively piece together federal resources from the CDFI Fund, housing, rural development, Small Business Administration (SBA) and other programs to provide support to ECE operators. NCFN members have had tremendous success supporting ECE programs nationwide, yet we know there is significantly more need for capital and business capacity building than we can possibly provide given the resources available. CRA has already provided an important incentive for private sector investment in CDFIs and successful public-private partnerships like the Low Income Housing Tax Credit (Housing Credit) and New Markets Tax Credit (NMTC) that have benefited ECE providers in various ways. For instance, CDFIs provide capital, technical assistance and business capacity building services to ECE providers across the country; NMTC has been used to directly support the development and operation of child care facilities and programs; and the Housing Credit has been used to co-locate child care in affordable housing developments, a promising model that combines two critical community assets.

We strongly believe that there are tremendous opportunities to further strengthen CRA's ability to support the capital and business capacity needs of ECE providers, many of whom are low- or moderate-income (LMI) themselves. Unfortunately, NCFN is concerned that the proposed changes have the potential to exacerbate many of the existing financing and business capacity challenges already impeding our nation's ECE delivery system.

**NCFN urges the agencies to re-publish a substantially updated proposed rule and solicit additional public comments prior to moving forward with a final rule.** We offer the following comments to inform a re-published proposed rule.

## COMMENTS

NCFN is concerned that the proposed CRA evaluation measure could have negative impacts on our ability to provide critical financing and support for community development programs and services, including child care. The proposal to evaluate activities based on dollar volume negates the value of many of the products and services that are most impactful for communities. For instance, many child care providers operate at exceptionally thin margins due to chronic underfunding of the sector and the high costs of providing quality care. As such, most child care providers are unable to support any debt on their programs, even at exceptionally favorable terms, and those who are able to take on debt are only able to do so with significant credit enhancement and other creative financing that allows providers to access patient capital. In both instances, the majority of providers rely on relatively small grants that are tailored specifically to their needs and significant technical assistance from CDFIs or other community partners to access capital. NCFN is concerned that the movement to the proposed CRA evaluation measure would favor larger, quicker transactions and disproportionately impede our ability to access the more flexible financing sources necessary to support ECE providers.

This concern is amplified when considering the expanded list of eligible community development activities offered in the proposed rule. Both mortgage-backed securities (MBS) and essential infrastructure projects would be included as eligible community development activities without any restriction. MBS and infrastructure projects are significantly larger in dollar volume and simpler for a bank to accomplish than working with a CDFI to provide small, flexible financial products to ECE providers. The incentives created in the proposed rule would likely lead banks to engage in activities like MBS and infrastructure projects that could more easily satisfy the proposed 2 percent threshold of community development activity for a passing rating. Further, the proposed changes would minimize the importance of qualitative elements in the evaluation of a bank's CRA activity. Qualitative elements – including the extent to which a grant or loan is “innovative” or “complex” – are critical for supporting more nascent financing areas, including child care. The combination of an expanded list of eligible activities and the diminished focus on qualitative activities could further limit our ability to access financing that supports ECE providers.

The absence of an investment test in the proposed rule also poses existential threats to the community development industry, including the child care sector. As noted above, the NMTC and Housing Credit are two successful public private partnerships that have begun demonstrating promising benefits for ECE providers – NMTC as a direct source of support for ECE facilities and the Housing Credit as an avenue to encourage co-location of affordable housing and child care. Unfortunately, the absence of an investment test in the proposed changes means there is no mandate for banks to engage in equity investments, which could have particularly negative impacts on the NMTC and Housing Credit. NCFN is concerned about the potential reduction in NMTC and Housing Credit activity, and the ensuing consequences for child care providers as a result of these changes.

Finally, NCFN does not believe that the proposed changes will adequately incent additional investments in areas of the country that are most in need of capital. While the creation of new deposit-based assessment areas may alleviate the oversaturation of CRA-motivated investments in certain places with a large concentration of bank headquarters, it is possible that capital will simply be concentrated in new areas given that most banks will take a majority of their deposits from large urban areas. This proposal does not address the urgent need for capital in areas that have experienced serious disinvestment, like rural areas, persistent poverty counties and credit deserts. NCFN believes banks should receive CRA credit for eligible community development activities conducted in any state where a bank has at least one assessment area. This would create state-wide assessment areas that would allow banks greater flexibility

to identify impactful community development opportunities, including support for child care providers, in areas of a state where they otherwise might not have considered investing.

NCFN recommends that the agencies re-publish a proposed rule for public comment. The proposed rule should:

- Emphasize qualitative elements in the evaluation of a bank's CRA activity;
- Limit the list of eligible community development activities to those that are truly impactful for LMI communities and people;
- Retain a strong incentive for banks to participate in community development equity investments; and
- Provide CRA credit for community development activities conducted state-wide in a state that a bank has at least one assessment area, assuming a passing rating on the bank's most recent published CRA exam.

NCFN is eager to see a CRA modernization effort that strengthens our ability to provide much needed capital, technical assistance and business capacity building support to ECE providers.

Please feel free to contact Nicole Barcliff, LISC Policy Director and NCFN Co-Chair ([nbarcliff@lisc.org](mailto:nbarcliff@lisc.org), 202-739-9296) or Angie Garling, LIIF National ECE Director and NCFN Co-Chair ([agarling@liifund.org](mailto:agarling@liifund.org), 415-489-6116 Ext 316) with any questions.

Sincerely,

National Children's Facilities Network