April 24, 2018

The Honorable Martin Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Dear Chairman Gruenberg,

On March 30, in recognition of the Fair Housing Act’s fiftieth anniversary, President Trump declared April 2018 as National Fair Housing Month and announced that his “Administration intends to deliver on the promise outlined by the Fair Housing Act, by ending prejudice and unlawful discriminatory practices in the sale, lease, and financing of housing.” As one of the agencies charged with ensuring compliance with the Community Reinvestment Act (CRA), a law designed to address the disgraceful historical practice of redlining, the Federal Deposit Insurance Corporation (FDIC) has a critical role in making sure that the institutions it supervises are serving their customers fairly. I am writing to request information about how the FDIC is executing this mission.

Fifty years after the Fair Housing Act became law, housing discrimination remains a serious problem in the United States. According to a recent study by the Center for Investigative Reporting and Reveal, minority borrowers are more likely to be denied a mortgage than similar white borrowers in 61 metropolitan areas—even after controlling for loan amounts, neighborhoods, and applicants’ income. To combat housing and lending discrimination, it is critical that federal regulators uphold and enforce the rules put in place to protect American communities.

The CRA was enacted to curb lending discrimination and to ensure that banks help meet the credit “needs of the communities in which they are chartered to do business.” The FDIC, along with the Office of the Comptroller of the Currency (OCC) and the Federal Reserve (the Fed), is tasked with developing regulations and evaluating banks’ compliance with the CRA as

2 https://www.minneapolisfed.org/community/cra-resources/history-of-the-cra-new
3 Aaron Glantz and Emmanuel Martinez, “For people of color, banks are shutting the door to homeownership,” Reveal (February 15, 2018) (Online at: https://www.revealnews.org/article/for-people-of-color-banks-are-shutting-the-door-to-homeownership/).
4 12 U.S.C. § 2901
part of its examination program. Any institution regulated by these three agencies with assets valued at $1.252 billion or more is subject to data collection that allows FDIC, OCC, and the Fed to evaluate these banks’ compliance with the CRA. The three regulatory agencies conduct comprehensive tests and determine if a bank has one of four ratings: Outstanding, Satisfactory, Needs to Improve, or Substantial Noncompliance.

Earlier this month, the Treasury Department released a set of recommendations to the primary CRA regulators, on how to “modernize” that law. Recent reports also indicate that the FDIC has been working with the OCC and the Federal Reserve on “an interagency redo” of CRA rules, and is close to releasing those changes. The OCC has already taken action – in October 2017 it issued a new Policies and Procedures Manual that weakened its ability to penalize “banks suspected of discriminatory lending” by allowing lenders to avoid double downgrades and penalties if they promise to take action. You recently warned that “the danger is that changes to regulations could cross the line into substantial weakening of requirements.” I agree.

In order to better understand the FDIC’s approach to the CRA and how the agency intends to fulfill the President’s vow to “deliver on the promise outlined by the Fair Housing Act,” I ask that you provide answers to the following questions no later than May 8, 2018:

1. How many the CRA examinations has the FDIC conducted in each of the last five years?
   a. What percentage of banks received each of the four ratings in each year?
   b. How often on average elapses between CRA examinations?

2. Please list any and all changes the FDIC plans on making to regulations or procedures governing CRA enforcement, and how those changes allow the agency to better regulate “unlawful discriminatory practices in the sale, lease, and financing of housing.”
   a. Does the FDIC plan to incorporate any of the recommendations from the Treasury Department in to its reforms?

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5 12 U.S.C. § 2902
6 Community Reinvestment Act “2018 Reporting Criteria” Federal Financial Institutions Examination Council (Online at: https://www.ffiec.gov/cra/reporter18.htm).
7 12 U.S.C. § 2906
3. Are you, or any other FDIC employees, consulting with or discussing changes to CRA enforcement policies with any outside entities – including lobbyists or representatives of the banking or financial services industry – in revising the CRA enforcement rules? If so, please provide a list of any and all meetings where these changes were discussed, and a list of all participants.

4. Please provide a list of all meetings that have taken place as a result of the “interagency redo,” including topics of the meetings and the participants.

5. How does the FDIC measure the effectiveness of the agency’s efforts to reduce housing discrimination? Please provide an analysis of the agency’s performance over the last two years.

6. Please describe any FDIC initiatives in place, beyond CRA enforcement, to address housing discrimination.

Sincerely,

[Signature]

Elizabeth Warren
United States Senator