April 24, 2018

The Honorable Joseph M. Otting
Office of the Comptroller of the Currency
400 7th Street, SW
Washington DC, 20219

Dear Comptroller Otting,

On March 30, 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.”1 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,2 the Office of Comptroller of the Currency (OCC) 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 OCC 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.3 To combat housing and lending discrimination, it is critical that federal regulators uphold and enforce the rules put in place to protect American communities.

However, in spite of the nation’s ongoing problem of housing discrimination, there are efforts underway to weaken, rather than strengthen, key federal housing statutes. The OCC has taken steps to undermine the CRA, a law 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.”4 The OCC, one of three primary regulators tasked with developing regulations and

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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
evaluating banks’ compliance with the CRA, issued a new Policies and Procedures Manual (PPM) in October 2017 “soften[ing] a policy for punishing banks suspected of discriminatory lending.” Under this new policy, OCC would not be able to downgrade a bank’s rating by “more than one rating level,” regardless of the severity or magnitude of its discriminatory or illegal practice, and would not be able to downgrade a bank until “full consideration is given to the remedial actions taken by the bank.” This means that if a bank “has taken or has committed to take” corrective action, “including voluntary corrective action resulting from self-assessment,” it could potentially be exempt from a downgrade. It is dangerous and wrong to let institutions that have been accused of discrimination avoid penalization because they promise to take remedial action.

Given the OCC’s recent efforts to weaken the enforcement of federal housing statutes, I am concerned about the agency’s ability to fulfill the President’s vow to “deliver on the promise outlined by the Fair Housing Act.” In order to better understand the OCC’s commitment to combating housing discrimination I ask that you provide answers to the following questions no later than May 8, 2018:

1. Recent reports indicate that OCC is close to releasing “an interagency redo” of the CRA in coordination with the Federal Reserve and the Federal Deposit Insurance Corporation. Please list any and all changes OCC plans on making to rules and regulations governing CRA enforcement, and explain how those changes improve the agency’s ability to stop “unlawful discriminatory practices in the sale, lease, and financing of housing.”

2. 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.

3. The Treasury Department recently released a set of recommendations to the primary CRA regulators on how to “modernize” the CRA. As the OCC works on changes to the CRA, what, if any, of the recommendations from the Treasury Department will you incorporate in your reform?

1 12 U.S.C. § 2902
4 12 CFR 25.28(c)(2)
4. The PPM issued in October 2017 by your predecessor, Acting Comptroller Keith Noreika, weakened the OCC's ability to impose penalties on banks under the CRA - allowing banks to avoid double downgrades and penalties if they promise to take action to address problems.

   a. What analysis did the OCC conduct to determine how the changes outlined in the October PPM would hinder the agency's ability to carry out its mission to ensure “fair access and equal treatment to national banks customers”?11

   b. Please list any meetings that former Acting Comptroller Noreika, and any other OCC employees, had with outside entities – including lobbyists or representatives of the banking or financial services industry – to discuss changes to CRA supervision policies prior to the release of the October PPM.

5. Are you, or are any other OCC 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 all meetings and all participants in these meetings where these changes were discussed.

6. How does the OCC measure the effectiveness of the agency’s efforts to reduce housing discrimination? Please provide a detailed analysis of the agency’s performance over the last two years.

7. Please describe any initiatives the OCC has in place, beyond CRA enforcement, to address housing discrimination.

   Sincerely,

   [Signature]

   Elizabeth Warren
   United States Senator

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