Congress of the United States
Washington, DC 20515

May 11, 2015

The Honorable Gene L. Dodaro
Comptroller General of the United States
U.S. Government Accountability Office
441 G Street NW
Washington, DC 20548

Dear Mr. Dodaro:

We are writing to request an evaluation of the Community Reinvestment Act (CRA) that would address actions bank regulators could take to responsibly increase access to basic banking services such as checking and savings accounts and small-dollar, non-mortgage consumer loans for low- and moderate-income Americans, and actions bank regulators could take to expand or strengthen such incentives.

Congress passed the CRA[1] in 1977 to "re-affirm the obligation of federally chartered or insured financial institutions to serve the convenience and needs of their service areas" and "to help meet the credit needs of the localities in which they are chartered, consistent with the prudent operation of the institution."[2] The CRA applies to banks insured by the Federal Deposit Insurance Corporation (FDIC), but not to credit unions, insurance companies, broker dealers and other nonbank institutions.[3] The CRA also imposes obligations on banks within "assessment areas" chosen by the banks around their main office, local branches, and ATMs.[4]

As part of the CRA, large banks are subject to a "service test," which evaluates the "availability and effectiveness of a bank's system for delivering retail banking services."[5] The test "considers the distribution of branches and their openings and closings, non-branch systems for delivering banking services (such as ATMs and bank-at-work programs), the types of services offered, and the degree to which services are designed to meet customer needs, all with

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[1] P.L. 95-128, 12 U.S.C. §§ 2901-2908.

[2] Congressional Research Service, *The Effectiveness of the Community Reinvestment Act*, 1 (Jan. 7, 2015).

[3] Office of the Comptroller of the Currency Fact Sheet, *Community Reinvestment Act* (Mar. 2014) (online at http://www.occ.gov/topics/community-affairs/publications/fact-sheets/fact-sheet-cra-reinvestment-act.pdf).

[4] Federal Deposit Insurance Corporation, *Community Reinvestment Act (CRA) Performance Ratings* (Oct. 28, 2010) (online at https://www2.fdic.gov/crapes/peterms.asp).

[5] Roberto Quercia and Janneke Ratcliffe with Michael A. Stegman, *The Community Reinvestment Act: Outstanding and Needs to Improve*, The Federal Reserve Bank of San Francisco, 53 (Feb. 2009).

respect to the income level of the areas served."[6] All banks are subject to a "lending test," for which banks, especially large banks, may choose to provide data on non-mortgage consumer lending. The effectiveness of these tests and other CRA provisions designed to ensure that low- and moderate-income communities have access to basic banking services like checking and savings accounts and small-dollar consumer loans is the primary focus of the investigation we are requesting.

Despite the focus on expanding basic banking services to low- and moderate-income communities, a significant portion of the American population remains underbanked (meaning consumers have a bank account but are still forced to rely on alternative financial services (AFS) like check cashing services) or unbanked (meaning consumers have no deposit account of any kind). According to a biennial survey by the FDIC, 25% of residents in the Baltimore-Towson metropolitan area are underbanked and over 5% are unbanked.[7] The problem extends beyond Baltimore as well; in Wichita, Kansas, 10% of residents are unbanked and 23% are unbanked, and the numbers are similar in Orlando, Florida, where 10% of residents of unbanked and 25% are underbanked.[8] In Massachusetts, close to 6% of households are unbanked and 17% are underbanked; between 2009 and 2013, the percentage of unbanked households increased by almost 50%.[9] Among the African-American population nationwide, 41% are underbanked and 13% are unbanked.[10]

When residents lack access to traditional banking services like savings and checking accounts or consumer credit, they are often forced to rely on check cashing facilities, payday or auto title lenders, pawn shops, prepaid cards, and rent-to-own stores — all of which can offer services at high fees and on predatory terms.[11] Data from the National Community Reinvestment Coalition, for example, shows that Baltimore has 124 bank branches but 166 AFS

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[6] *Id.*

[7] Federal Deposit Insurance Corporation, *2013 Survey Results for Baltimore-Towson, MD* (2014) (online at https://www.economicinclusion.gov/surveys/place-data.html?where=Baltimore_Towson_MD&when=2013).

[8] Federal Deposit Insurance Corporation, *2013 Survey Results for Wichita, KS* (2014) (online at https://www.economicinclusion.gov/surveys/place-data.html?where=Wichita_KS &when=2013); Federal Deposit Insurance Corporation, *2013 Survey Results for Orlando, FL* (2014) (online at https://www.economicinclusion.gov/surveys/place-data.html?where= Orlando_FL&when=2013).

[9] Federal Deposit Insurance Corporation, *2013 Survey Results for Massachusetts* (2014) (online at https://www.economicinclusion.gov/surveys/place-data.html?where=Massachusetts& when=2013).

[10] *Id.*

[11] *See, e.g.*, Massachusetts Division of Banks, *2012 Report on Check Cashers and Basic Banking Fees*, 4 (2012) (online at http://www.mass.gov/ocabr/docs/2012-report-on-check-casher-and-basic-banking-fees.pdf) ("In all cases, consumers utilizing check cashers would pay considerably more in fees than if they were using a Basic Checking Account. On a monthly basis, consumers would pay between 5.5 and 35 times the maximum fees charged to maintain a Basic Checking Account.").

locations.[12] While recent years have seen some growth in services offered to underserved communities by depository institutions, such as account-based debit card products that reflect recommendations by the FDIC,[13] these communities clearly continue to experience gaps in access to the mainstream financial services sector.

With so much of the U.S. population underserved today, it is striking that, since CRA evaluations began, approximately 97% or more of banks examined received ratings of Satisfactory or Outstanding."[14] In addition, "[t]he number of exams has fallen dramatically while the share of favorable grades has risen."[15]

Analysts have pointed to several explanations for why the CRA may have proven ineffective in addressing unbanked and underbanked communities like Baltimore. First, commentators have expressed concern that "enforcement of CRA objectives has not been stringent enough to compel banks to increase financial services in LMI [low- and moderate-income areas]."[16]

Second, researchers have pointed to the weakness of the CRA's service test specifically, explaining that "[t]here is wide agreement that the CRA Service Test offers only weak incentive[s]" and "is open to a high degree of subjectivity and interpretation, making it relatively easy to earn a passing grade."[17] In fact, an analysis of approximately 2,000 CRA examinations between 1996 and 2002 concluded that the test "was often used as a 'grade inflator' to boost an institution's overall CRA rating."[18]

Finally, analysts have also noted that the changing landscape of financial services in the United States may have eroded the effectiveness of the CRA over time. In particular, the consolidation of the banking industry and the growth of national institutions have meant that "the area banks serve is no longer self-evident or defined by a geographic community. For such firms, anchoring CRA obligations to the low- and moderate-income area surrounding a charter or headquarters does not reflect the reality of their businesses or their impact on low- and moderate-

[12] E-mail from Gerron S. Levi, National Community Reinvestment Coalition, to Minority Staff, House Committee on Oversight and Government Reform (Apr. 30, 2015).

[13] Minutes of the Meeting of the FDIC Advisory Committee on Economic Inclusion (Apr. 24, 2014).

[14] *Id.* at 9.

[15] Roberto Quercia and Janneke Ratcliffe with Michael A. Stegman, *The Community Reinvestment Act: Outstanding and Needs to Improve*, The Federal Reserve Bank of San Francisco, 55 (Feb. 2009).

[16] Congressional Research Service, *The Effectiveness of the Community Reinvestment Act*, 2 (Jan. 7, 2015).

[17] *Id.* at 54.

[18] *Id.*

income consumers."[19] According to the National Community Reinvestment Coalition, for example, no Maryland locations were designated as primary evaluation areas in Bank of America's most recent CRA evaluation—despite the fact that the bank is the largest financial institution by deposit size in the state.[20]

Given these concerns, we request that GAO evaluate the practices and procedures bank regulators use to enforce the CRA and possible actions that could be taken to better encourage the extension of basic financial services like checking and savings accounts or small-dollar, non-mortgage credit to low- and moderate-income communities. In particular, we would like GAO to address the following questions:

1. What practices and procedures do regulators follow in conducting CRA examinations, and how consistent are these various practices across regulators?

2. To what extent do current regulatory approaches create incentives or disincentives for financial institutions to responsibly and directly provide basic banking services and small-dollar, non-mortgage lending, in addition to investments or grants in support of community development, serving low- and moderate-income communities?; and

3. What options have been identified to generate more incentives for banks to better serve the needs of low- and moderate-income communities for access to basic banking services and small-dollar consumer loans, such as possible methods for improving CRA evaluations; revising CRA performance evaluation guidelines or assessment areas to better reflect the true range of bank performance; or further emphasizing the provision of non-mortgage consumer loans or bank services beyond the mere presence of a branch as contributing factors to banks' lending and/or service performance ratings?

Thank you for your attention to this request. Please direct any questions to Lucinda Lessley with Rep. Cummings' office at (202) 225-5051 or Brian Cohen with Senator Warren's office at (202) 224-4543.

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[19] Eugene A. Ludwig, James Kamihachi, and Laura Toh, *The Community Reinvestmet Act: Past Successes and Future Opportunities*, The Federal Reserve Bank of San Francisco, 101 (Feb. 2009). *See also* Testimony of John Taylor, President & CEO, National Community Reinvestment Coalition, Community Reinvestment Act Interagency Joint Public Hearing (July 19, 2010) (explaining that for banks that "issue most of their loans through non-branch channels … it is not unusual to encounter CRA exams that cover only the geographical area of the bank's headquarters.").

[20] E-mail from Gerron S. Levi, National Community Reinvestment Coalition, to Minority Staff, House Committee on Oversight and Government Reform (May 7, 2015).

Sincerely,

Elizabeth Warren
Ranking Member
Subcommittee on Economic Policy
Senate Committee on Banking, Housing,
and Urban Affairs

Elijah E. Cummings
Ranking Member
Committee on Oversight and
Government Reform