

# DOI SELF-GOVERNANCE ADVISORY COMMITTEE

c/o Self-Governance Communication and Education

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January 9, 2019

Joseph Otting, Comptroller of the Currency  
Office of the Comptroller of the Currency  
Internal Revenue Service  
U.S. Department of the Treasury  
Mail Stop 3E-218  
400 7<sup>th</sup> Street, SW  
Washington, DC 20219

RE: Comments on Community Reinvestment Act Modernization [Docket ID: OCC-2018-0008]

Dear Comptroller Otting:

On behalf of the Department of the Interior's (DOI) Self-Governance Advisory Committee (SGAC), I appreciate the opportunity to comment on the Office of the Comptroller of the Currency (OCC) Advanced Notice of Proposed Rulemaking (ANPRM) to modernize the Community Reinvestment Act (CRA). Equitable access to capital to fund government projects and economic development investments is a critically important issue to the more than 270 Self-Governance Tribes within DOI in addition to Tribes across the Nation. Modernization of the CRA that substantively includes Tribal Nations will ensure that Tribal governments and their citizens, just as their peers, are better able to access capital that supports self-government and self-sufficiency.

Self-Governance Tribes ambitiously manage and directly operate Federal programs that support social services, community services, natural resources, and public safety needs. Though Federal appropriations are provided, Tribal governments often have to make difficult choices to reduce services or provide assistance with Tribal revenue developed solely from economic development ventures – as a reliable tax base is rarely available to Tribes. Therefore, Tribes must be innovative to operate programs more efficiently and effectively while consistently searching for sources of revenue to support desperately needed services in rural, remote, and disadvantaged areas.

Self-Governance Tribes, just as other Tribes across the Nation, have experienced many barriers to access adequate financial services for citizens and the government. However, we support modernization of the CRA that incentivizes active engagement with Tribal governments, either directly or indirectly, that will lead to Tribal communities and citizens having increased access to capital markets and financial services. Given the importance of Tribal inclusion and the additional opportunities in

the upcoming rulemaking process, SGAC provides recommendations below for your consideration.

**Indian Country should have its own assessment area.** Decades of Federal policy, regulations and statutes create unique challenges and issues for Tribal governments and citizens. As such, SGAC recommends that the OCC specifically incentivize or require banks to do business, to understand, and to engage with Tribal governments. Most importantly, Indian Country must stand alone, because history illustrates that combining these areas with metropolitan or other assessment areas create inequity in access for Tribal communities. Experience in tax credit allocations and other well-intended policies have failed to have an inclusive or effective reach for Indian Country.

The assessment area for Indian Country can be defined as those areas on or near reservations or a Tribally designated area by census tracts. As reported by the Center for Indian Country Development, even when financial institutions are established on or near Tribal communities that should serve Tribal communities they are sometimes up to fifty or more miles away which puts a substantial burden on these often smaller institutions. However, the burden of serving Tribal communities should not fall to community banks and those already making inroads into Indian Country. More institutions are needed to meet the demand and share the risk of developing underserved Tribal communities. This may include creative access to in-person services and those offered through remote or mobile services.

Amending the CRA to include a requirement for large institutions without a presence in the Indian Country assessment area to provide or support needed financial services will ensure that the CRA is effective in increasing access in the most underbanked and underserved communities in the Nation.

**Incentivize banks to support existing Federal programs designed to help Indian Country.** The Federal government, through tax incentives, guarantees, or other Federal policies, has identified a need to influence development or the flow of capital into Indian Country. These policies include energy and business loan guarantees through the Departments of Energy and Interior, New Markets Tax Credits and Native CDFI's through the Department of the Treasury, schools and health care centers through the DOI and the Department of Health & Human Services, and Section 184 Home Loan Program at the Department of Housing and Urban Development. Amending the CRA to provide incentives to support existing Federal programs and services would open additional opportunities for Tribal governments and citizens and build upon existing, well-established programs.

**Acknowledge the technology gap Tribal communities and citizens experience.** Indian Country is the most underserved population for broadband access; therefore any changes in the CRA regarding online and mobile banking must consider and align with the realities of access to broadband and mobile networks. Overreliance or dependence on these mechanisms will only further the access gap between Tribal

citizens and their peers and make access to financial institutions more disparate. As a result, any changes or requirements that rely on technology should be tempered with the realities that Tribal communities experience.

**Provide credit or incentives to banks investing in business and economic development projects.** Tribes rely on business and economic development to provide revenue for governmental services typically funded with local tax revenue. Consequently, access to capital for large and small scale investment projects is critical to a well-functioning and supportive government. However, access to this capital is limited for Tribes and often comes at significant costs other governments do not experience. Moving forward, CRA amendments should include changes that will further business and economic investment for Tribal governments and citizens, because these investments have far-reaching benefits for growing economies in significantly distressed areas.

**Include requirements to capture accurate Tribal citizenship data.** In order to measure the success of the CRA amendments in Tribal communities, accurate data must be collected and analyzed. For Tribal governments, this is more than a measurement of access and policy success – it is a political concern. Tribal governments and Tribal citizens experience higher declination rates and outright denial of service from banks near reservations that portend to serve their communities. Ascertaining the citizenship of applicants is already part of the application process for financial services, therefore SGAC suggests that banks be encouraged to work with Tribes to ensure citizen identification is properly collected when applying for financial services.

Thank you for the opportunity to provide these initial comments on the ANPRM and consideration of our comments. If SGAC can provide additional comments or insight about the recommendations above, please contact Jay Spaan, Executive Director, Self-Governance Communication and Education Tribal Consortium (SGCETC) at [jays@tribalselfgov.org](mailto:jays@tribalselfgov.org) or (918) 370-4258.

Sincerely,



W. Ron Allen  
Tribal Chairman/CEO, Jamestown S’Klallam Tribe  
Chairman, SGAC

Cc: National Association of Financial Assessment Officers  
SGAC and Technical Workgroup Members