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MASSACHUSETTS COMMUNITY & BANKING COUNCIL

Written Comments from the Massachusetts Community & Banking Council regarding Community Reinvestment (209 CMR 46) and Mortgage Lender Community Investment (209 CMR 54) before the Massachusetts Division of Banks Regulation Review Information Session held August 13, 2015 Comments Submitted August 20, 2015

Good morning. My name is Dana LeWinter, Executive Director of the non-profit Massachusetts Community & Banking Council. We are here today to offer comments on the importance of several regulations under consideration by the Division of Banks, specifically 209 CMR 46 Community Reinvestment and 209 CMR 54 Mortgage Lender Community Investment.

MCBC has been producing our annual series Changing Patterns for 21 years, presenting information on mortgage lending in Boston, Greater Boston and Massachusetts. Part of our analysis classifies each mortgage lender into one of three major categories; Massachusetts Banks and Credit Unions, which are covered by state and/or federal CRA; Licensed Mortgage Lenders, which are covered by the state Mortgage Lender Community Investment regulations; and Other Lenders, which are exempt from such oversight by any regulator. These classifications highlight dramatically different patterns of mortgage lending by lenders subject to evaluation under CRA and those not subject to such evaluation.

Our most recent report, released in December 2014 and which covers lending in 2013, highlights, as have past years' reports, that CRA-covered lenders made a greater share of their total loans as conventional loans to categories of traditionally underserved borrowers and neighborhoods than did Licensed Mortgage Lenders and Other Lenders.

For example, for home purchase loans in Boston in 2013, conventional loans to black borrowers made up 5.5% of all loans made by CRA-covered lenders, but only 1.9% of all loans made by Licensed Mortgage Lenders, and only 1.5% of all loans by Other Lenders. And, conventional home-purchase loans to low- and moderate-income borrowers accounted for 24.9% of Massachusetts loans by CRA-covered lenders, compared to 17.5% of loans by Licensed Mortgage Lenders and 15.2% of loans by Other Lenders.

In addition, Government-backed loans made up a much larger share of total loans by Licensed Mortgage Lenders and Other Lenders than of total loans by CRA-covered lenders. For example, statewide, GBLs accounted fro 18.6% of all loans by Licensed Mortgage Lenders and 12.4% of all loans by Other Lenders, but only 3.9% of all loans by CRA-covered lenders. In Boston and Greater Boston, GBLs accounted for shares of all loans by Licensed Mortgage Lenders and Other Lenders that were between three and four times larger than the GBL share of all loans by CRA-covered lenders.

These numbers show the importance of CRA in ensuring that traditionally underserved communities receive fair access in mortgage lending and we strongly support their continuation and strengthening.

For the first time this year, Changing Patterns also highlights that the Mortgage Lender Community Investment regulation (209 CMR 54) may have had a positive impact on the relative performance of Licensed Mortgage Lenders in 2013. Since the Changing Patterns series was begun, as I have previously mentioned, comparisons have consistently shown a substantial difference in performance of CRA-covered lenders and all other lenders, including Licensed Mortgage Lenders.

For conventional home-purchase lending in 2013, however, loan shares for Licensed Mortgage Lenders were greater than the loan shares for Other Lenders in four of the five categories of traditionally underserved borrowers and neighborhoods in Boston (by an average of 42% with the fifth category being a tie), and in all five categories statewide (by and average of 12%), which includes analysis of lending to Black Borrowers, Latino Borrowers, LMI borrowers, LMI Census Tracts, and LMI Census Tracts that have populations that are greater than 75% Minority. This analysis shows that MLCI may be having an impact on the performance of Licensed Mortgage Lenders in serving traditionally underserved populations. MCBC feels strongly that MLCI should continue.

MCBC's Mortgage Lending Committee established a Task Force to assess the impact of the CRA for Mortgage Companies law. This Task Force investigated the law's impact by interviewing relevant parties, collecting and analyzing relevant data. The MLCI Task Force report is in draft form and should be completed and shared with the Division of Banks in full shortly. Recommendations and Findings of the Task Force are summarized here:

Lending Test: The ratings and criteria for the Lending Test are clear. Therefore the emphasis going forward should be on encouraging LMLs to improve their lending to LMI populations. The Task Force stresses the importance of fair lending, having clear written policies and procedures, LMLs setting goals for LMI lending and self-assessment and offering GBL and/or MassHousing products. In addition, while the criteria are clear, some on the Task Force felt additional guidance on the specific metrics used, and why, would be helpful to LMLs.

Service Test: The rating and criteria for the Service Test are less clear so guidance will be critical. There is confusion in the industry around what constitutes Community Development Services and Qualified Investments. The Task Force stressed the importance of understanding the definitions, documenting all efforts, taking proactive efforts in areas of high impact and learning from the best practices of others.

Ratings: The Task Force understands that the Public Exam does not and can not go into all of the details that the private report will, but there is a need for elaboration on ratings so that LMLs can read each other's Exams and improve. The Task Force encourages the Division of Banks to elaborate on ratings when possible and expand the boilerplate descriptions in the Public Exams when possible. The Task Force also recommends expanding the explanation of criteria used and performance context in the Public Exam. The Task Force also request that the Division of Banks issue guidance in bulletins and FAQs to assist LMLs in understanding the ratings, definitions and best practices.

In addition, the Task Force report will elaborate on several areas where training and templates for better documentation will help LMLs to better understand how to improve their work and receive credit for their efforts.