



# USET

SOVEREIGNTY PROTECTION FUND

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*Submitted via regulations.gov*

March 9, 2020

Department of the Treasury  
Office of the Comptroller of Currency  
Comptroller Joseph Otting  
400 7<sup>th</sup> Street SW  
Washington, DC 20219

**Re: Community Reinvestment Act Regulations  
Docket ID OCC-2018- 0008**

Dear Comptroller Otting,

On behalf of United South and Eastern Tribes Sovereignty Protection Fund (USET SPF), we to express our strong support for the Notice of Proposed Rulemaking (NPRM), Docket ID OCC-2018-0008 (NPRM) modernizing the Community Reinvestment Act (CRA). The proposed regulations provide financial institutions with clarity as to the types of activities that count for CRA credit and how those activities will be measured. We are especially supportive of the express inclusion of Indian Country after decades of uncertain standing. We believe these long-overdue regulations will help Indian Country access capital more readily.

USET SPF is a non-profit, inter-Tribal organization advocating for thirty federally recognized Tribal Nations from the Northeastern Woodlands to the Everglades and across the Gulf of Mexico.<sup>1</sup> USET SPF is dedicated to promoting, protecting, and advancing the inherent sovereign rights and authorities of Tribal Nations and in assisting its membership in dealing effectively with public policy issues.

Economic sovereignty is essential to Indian Country's ability to be self-determining and self-sufficient. Rebuilding our Tribal Nations includes rebuilding our Tribal economies as a core foundation of healthy and productive communities. USET SPF has identified and seeks action on number of barriers to economic development in Indian Country, including access to capital, lack of parity in the tax code, and the indeterminate status of trust lands. Limited access to capital often serves as our greatest challenge and interferes with our ability to pursue economic development opportunities.

In the current regulatory structure, banking institutions get "credit" for certain types of activities that are aimed at meeting the banking needs of the low- and moderate-income (LMI) communities in which they

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<sup>1</sup> USET SPF member Tribal Nations include: Alabama-Coushatta Tribe of Texas (TX), Aroostook Band of Micmac Indians (ME), Catawba Indian Nation (SC), Cayuga Nation (NY), Chickahominy Indian Tribe (VA), Chickahominy Indian Tribe–Eastern Division (VA), Chitimacha Tribe of Louisiana (LA), Coushatta Tribe of Louisiana (LA), Eastern Band of Cherokee Indians (NC), Houlton Band of Maliseet Indians (ME), Jena Band of Choctaw Indians (LA), Mashantucket Pequot Indian Tribe (CT), Mashpee Wampanoag Tribe (MA), Miccosukee Tribe of Indians of Florida (FL), Mississippi Band of Choctaw Indians (MS), Mohegan Tribe of Indians of Connecticut (CT), Narragansett Indian Tribe (RI), Oneida Indian Nation (NY), Pamunkey Indian Tribe (VA), Passamaquoddy Tribe at Indian Township (ME), Passamaquoddy Tribe at Pleasant Point (ME), Penobscot Indian Nation (ME), Poarch Band of Creek Indians (AL), Rappahannock Tribe (VA), Saint Regis Mohawk Tribe (NY), Seminole Tribe of Florida (FL), Seneca Nation of Indians (NY), Shinnecock Indian Nation (NY), Tunica-Biloxi Tribe of Louisiana (LA), and the Wampanoag Tribe of Gay Head (Aquinnah) (MA).

*Because there is Strength in Unity*

operate. A certain amount of CRA credit is required for a bank to gain approval to expand their market. Unfortunately, under current rules it is difficult to identify activities that count for CRA credit. By regularly publishing a list of qualifying (and non-qualifying) activities, as proposed in the NPRM, financial institutions will be able to better strategize their CRA activities to more meaningfully impact their respective communities. The proposed list of qualifying activities includes many activities specifically aimed at increasing the types of investment and banking services that are important within Indian Country and disadvantaged communities alike. The list recognizes the needs of entire communities and the role of local governments by encouraging investment in necessary infrastructure projects and community facilities like schools and health centers. Additionally, and just as important, the proposal enhances the impact of successful federal programs that Tribal Nations and other LMI communities already utilize by providing credit for funding projects that support federal programs.

The CRA has not been updated in twenty-five years, while the banking sector has changed dramatically during this period. Under the prior CRA framework, Indian Country is largely left out because banks can only get CRA credit for qualifying activities performed in proximity to their physical bank branches (also known as their "assessment area"). The current OCC and FDIC proposal reflects the rise of online banking and acknowledges and accommodates areas of the country, like Indian Country, where physical bank branches are scarce. The NPRM gives financial institutions CRA credit for qualifying activities within Indian Country and other qualifying areas regardless of an institution's geographic assessment area. Not only does the proposal give credit for these activities, it further encourages this investment by giving financial institutions extra CRA credit for working within these historically underserved communities. This type of creativity addresses overlooked obligations to Indian Country, supports the federal trust responsibility, and assists Tribal Nations in providing governmental services to our citizens.

The NPRM is a necessary and timely approach to ensuring investment and financial services meet the broad economic development requirements of LMI communities and Indian Country. The NPRM clarifies qualifying activities, develops a transparent formula for determine CRA compliance, and gives banks the clarity they need to understand their CRA status. By including the prominent role that technology will have in the banking sector, the proposal is forward looking. We are pleased the proposed regulations are inclusive and urge that these provisions remain in the Final Rule. USET SPF strongly supports CRA modernization efforts that seek to drive more capital toward Tribal Nations and our communities, so that we so that we may achieve our own revenue generating potential. Should you have any questions or require further information, please contact Ms. Liz Malerba, USET SPF Director of Policy and Legislative Affairs, at [LMalerba@usetinc.org](mailto:LMalerba@usetinc.org) or 202-624-3550.

Sincerely,



Kirk Francis  
President



Kitcki A. Carroll  
Executive Director