

**The Community Reinvestment Act: Reviewing Who Wins and Who
Loses with Comptroller Otting's Proposal**

Written Testimony of

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Chairman Meeks, Ranking Member Luetkemeyer and Members of the Subcommittee, thank you for holding this important hearing today and for inviting the California Reinvestment Coalition (CRC) to testify.

Paulina Gonzalez-Brito and CRC

My name is Paulina Gonzalez-Brito. I am the Executive Director of the CRC. The California Reinvestment Coalition builds an inclusive and fair economy that meets the needs of communities of color and low-income communities by ensuring that banks and other corporations invest and conduct business in our communities in a just and equitable manner.

We envision a future in which people of color and low-income people live and participate fully and equally in financially healthy and stable communities without fear of displacement, and have the tools necessary to build household and community wealth.

Over the last 30 years, CRC has grown into the largest statewide reinvestment coalition in the country, with a membership of 300 organizations that serve low-income communities and communities of color.

Introduction

The current proposal by the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) to change Community Reinvestment Act (CRA) rules threatens to substantially set back communities in our state and across the nation. If enacted as proposed, the rule would do serious harm to our communities and the organizations - like CRC and our members – who serve them. We will not sit back and allow this to happen without calling it out for what is – a deregulatory scheme designed to help the largest and most powerful corporations at the expense of low-income families and families of color seeking to build wealth and thrive.

3 Key Points

There are 3 main points I would like to make to the Subcommittee:

1. The CRA works and is critical to lifting working families out of poverty.
2. While the CRA can be improved to better target access to credit to low and moderate income families and families of color that need it the most, the proposal by the OCC and FDIC will do the opposite, weakening CRA rules, undermining the purpose of the statute,

and harming low-income communities and communities of color in California and throughout the nation.

3. Given our history with the OCC and the current Comptroller of the Currency, we are not surprised that the agency has led this effort to ease burdens on the largest financial institutions while sacrificing low-income communities and communities of color and undermining the public participation process that is the heart of the CRA.

The CRA is important and it works!

The Community Reinvestment Act (CRA) is a federal law that was passed in 1977 as a way to address discrimination in lending based on race, known as redlining. The CRA ensures that banks meet the credit needs of all communities where they take deposits, including low and moderate-income (LMI) neighborhoods. As a result of the CRA, banks have increased their lending to small businesses and made home ownership more accessible, regardless of race. It has also resulted in banks providing financial services in more communities, such as opening branches and offering affordable bank accounts without high fees that strip earning from low-income households.

The CRA has resulted in the development of affordable housing, small business growth, inclusive economic development, and neighborhood stabilization. Advocates throughout the United States, including CRC, have negotiated CRA agreements with banks that have included trillions of dollars in reinvestment for LMI communities and communities of color.¹

The CRA regulations encourage banks to make meaningful and much-needed investments and to lend in LMI communities and communities of color, consistent with safe and sound operations. The CRA ensures that banks reinvest in the communities they take deposits from, including those that were historically excluded from these types of opportunities due to redlining. The CRA is a crucial tool that encourages banks to participate in their communities in a more responsible manner. A Federal Reserve study found CRA agreements increased bank lending to LMI borrowers and borrowers of color by up to 20 percent.² CRA loans and investments are profitable and consistent with safe and sound operations.

The CRA has also been one of the most effective federal efforts to bring investment to communities without substantial taxpayer dollars or government resources. The design of the

¹ From California Reinvestment Coalition, “Harnessing the Power of Banks,” March 2018, available at: <http://calreinvest.org/wp-content/uploads/2018/07/Harnessing20the20Power20of20Banks20report20FINAL20version.pdf>, citing: Community Reinvestment Act (CRA). (2017, October 23). Retrieved from <https://ncrc.org/communityreinvestment-act-cra-2/>

² Raphael Bostic and Breck Robinson, “Do CRA Agreements Influence Lending Patterns?” 2002, Retrieved from <https://lusk.usc.edu/research/working-papers/do-cra-agreements-influence-lending-patterns>

CRA process encourages banks, regulators, and community leaders to have meaningful dialogue about a community's needs and banks' roles in the communities they serve.

According to the National Community Reinvestment Coalition, more than \$6 trillion worth of CRA investments have been committed to LMI communities and communities of color nationwide since the act was passed.³ Our survey of banks throughout California shows that the CRA is working in California as well; banks are investing in communities throughout the state in a number of impactful ways. Banks that responded to our surveys had lent over \$27 billion in 2016 in LMI communities and communities of color throughout California, and had over \$31 billion in total CRA activity in 2016.⁴

CRC negotiates formal written CRA agreements with banks which benefits both communities and financial institutions. Over the past three years, CRC has worked with communities and financial institutions to secure more than \$50 billion in new CRA commitments.⁵ These commitments are addressing critical community needs that help to create a more just, equitable, and robust economy, uplifting low-income people and people of color. In light of California's severe housing crisis, for example, CRA investments are helping to build and preserve thousands of units of affordable housing. In population dense urban centers, these affordable homes and apartments allow low-income residents to remain in communities where many of their families have lived for generations. Similarly, affordable bank loans for small business owners provide much-needed capital to main street businesses that are the lifeblood of local economic health. These small business loans are often coupled with technical assistance that provides entrepreneurs with the financial knowledge to grow their business and create local jobs.

The CRA encourages dialogue between banks, regulators, and community leaders. The CRA has three regulatory points of engagement during which the public and regulators must assess the performance of a bank in its deposit-taking areas: during a merger or consolidation process, when a bank applies open a bank branch, and during regular CRA examinations which occur every few years depending on the size and the past performance of the bank. The significance of the public participation process in CRA implementation cannot be overstated – how can banks meet community credit needs if the community does not help define those needs?

The current CRA proposal is deeply flawed

Although CRC and our members have long supported strengthening the CRA to better meet local

³ National Community Reinvestment Coalition, "CRA 101 Manual," available at: https://ncrc.org/wp-content/uploads/2017/11/CRA-101_b.pdf

⁴ From "Harnessing the Power of Banks," California Reinvestment Coalition, March 2018, available at: <http://calreinvest.org/wp-content/uploads/2018/07/Harnessing20the20Power20of20Banks20report20FINAL20version.pdf>,

⁵ CRC's recent community commitments with banks can be found at <http://www.calreinvest.org/publications/bank-agreements>.

community credit needs, address racial wealth disparities, and increase oversight of financial institutions, the proposal by the OCC and the FDIC does precisely the opposite. While CRC is still reviewing the current proposal, we are greatly concerned that it weakens the CRA and departs from its statutory mandate in the following respects, among others:

- *The regulatory agencies should act together.* The federal banking regulators have traditionally proceeded through joint rule makings, including for CRA regulations, seeking consistency and uniformity across institutions. The OCC proposal has not grappled with the important and difficult questions of how breaking from these precedents is in the public interest in this case. A final rule from only the OCC and the FDIC will need to contend with the fact that the Federal Reserve chose not to participate, provide the basis for that decision, and explain how the proposal nevertheless makes sense for regulated entities and affected communities. The current proposal makes no attempt to do so.

Here, the OCC and the FDIC may be creating an opportunity for regulatory arbitrage by going forward without the Federal Reserve. Banks may attempt to switch their regulator in order to lessen their CRA obligations. Such perverse incentives helped fuel the financial crisis, with the largest federally chartered thrifts failing, begetting the foreclosure crisis and ultimately, the end of the Office of Thrift Supervision (OTS). Before the crisis, the OTS sought to attract institutions to the OTS thrift charter by touting the strong preemption protection and other benefits a thrift charter might provide. The failure of OTS regulated institutions such as Washington Mutual, Downey Savings and Loan, World Savings, and, forebodingly, Indymac Bank, expedited the nation's financial crisis.

- *The CRA must retain its statutory focus on LMI and local needs, and not give banks credit for almost anything almost anywhere.* The proposal significantly expands the bank activities that count for CRA credit. Disturbingly, the proposal moves away from the CRA's statutory and historic focus on low and moderate income communities and the obligation to meet local credit needs in a number of ways. It provides CRA credit for loans for "affordable housing" that may actually be rented by middle or upper income tenants benefitting from low rents, loans for housing to tenants earning up to 120% of area median income in high cost areas, financial literacy classes even for upper income consumers, "small business" lending to businesses with up to \$2 million in revenue and in loan amounts of up to \$2 million (even though the vast majority of businesses have significantly less revenue, and most small businesses seek loans below \$100,000⁶),

⁶ Federal Reserve Banks of Atlanta, Boston, Chicago, Cleveland, Dallas, Kansas City, Minneapolis, New York, Philadelphia, Richmond, St. Louis, and San Francisco, "Small Business Credit Survey: 2019 Report on Employer Firms," which found that 57% of the 6,614 employer firm small business respondents to the survey sought financing of \$100,000 or less. Presumably, small business owners with no employees, who were not surveyed for this report,

investments in Community Development Financial Institutions (CDFIs) and on so-called “Indian Country” even if not for the benefit of low-income people, and even for large scale infrastructure projects that will primarily benefit the broader, non LMI public.

- *What happened to branches in LMI communities and access to bank accounts for LMI consumers?* Branches in LMI communities have been a key feature of the CRA, and bank presence in LMI neighborhoods has been shown to make a huge difference for local small businesses. According to one Federal Reserve study which analyzed small business lending using Community Reinvestment Act (CRA) disclosures, “among banks that are CRA reporters the share of loans made by lenders without a local branch presence remains quite low. This finding suggests that local branch presence is still important for small business lending.”⁷ Another recent study found that branch closings “led to a sharp and persistent decline in credit supply to local small businesses. Indeed, after a branch closing, annual tract-level small business loan originations fell by an average of \$453,000, from \$4.7 million. Loan originations remained depressed for up to six years, leading to a cumulative loss of \$2.7 million in loans that those branches might have made if not for their closings.”⁸

The importance of bank branches to a community extends beyond important small business lending. A December 2019 paper by the Federal Reserve found that “banking clients in communities subject to branch closures generally report increased costs and reduced convenience in accessing financial services, and that these challenges appear to be exacerbated for certain groups, such as those with lower incomes or less reliable transportation, older individuals, and small business owners.”⁹ Another paper examined CRA’s impact on branching. Overall, the number of branches has declined significantly from 88,022 in 2009 to 79,872 in 2018. The decline has been steeper in LMI tracts at 11% than non-LMI tracts at 9% during this time period. Importantly, the authors found that CRA has reduced the number of branch closures by 11% in LMI tracts. Importantly, CRA’s impact is the strongest preventing closure in LMI tracts with just one branch, preventing banking deserts.¹⁰

might need small dollar small business loans to a greater extent, and they would be even more poorly served by a proposal that incentivizes banks to originate larger loans to larger businesses.

⁷ Anenberg, Elliot, Andrew C. Chang, Serafin Grundl, Kevin B. Moore, and Richard Windle (2018). “The Branch Puzzle: Why Are there Still Bank Branches?” FEDS Notes. Washington: Board of Governors of the Federal Reserve System, August 20, 2018, <https://doi.org/10.17016/2380-7172.2206>.

⁸ Jacob Idlas, “In Small Business Lending, Technology Hasn’t Replaced Face-to-Face Contact,” Chicago Policy Review, March 2, 2019, citing Nguyen, Hoia-Luu, “Are Credit Markets Still Local? Evidence from Bank Branch Closings,” American Economic Journal: Applied Economics 11(1). (2019): 1-32.

⁹ Federal Reserve, “Perspectives from Main Street: Bank Branch Access in Rural Communities,” December 3, 2019, available at: <https://www.federalreserve.gov/publications/november-2019-bank-branch-access-in-rural-communities.htm>

¹⁰ Josh Silver, “New Penn Institute CRA Research Compendium Suggests Incremental Change Is Best Path For CRA Reform,” National Community Reinvestment Coalition blog, November 19, 2019, available at: <https://ncrc.org/new-penn-institute-cra-research-compendium-suggests-incremental-change-is-best-path-for-cra->

So, too, affordable and accessible bank account products (similar to CRC's Smart Money model account) can help low-income consumers remain in the financial mainstream and build assets by keeping them away from predatory check cashers and payday lenders. But in the current proposal, very little CRA credit is given to banks for siting branches in LMI neighborhoods, and there is apparently no consideration for whether banks are meeting the bank account needs of LMI residents such as through low or no fee accounts, acceptance of alternative forms of identification, or provision of language access services for Limited English Proficient consumers. The CRA requires banks to serve the convenience and needs of the communities where they are chartered to do business, including both the need for credit and deposit services.” By drastically reducing or eliminating CRA credit for branches and account services, the proposal substantially departs from this core CRA requirement.¹¹

- *The complex evaluation methods proposed by the OCC and the FDIC will lead to less overall investment.* Additionally, this proposal will create incentives for banks to favor big deals over small, simple deals over complex, cookie cutter approaches over innovative and impactful initiatives, and importantly, it will hurt rural communities. The new one ratio metric will have banks chasing the largest deals since that will count for more credit towards their target goals. Further, it will allow banks to fail in their obligations to serve up to half of their assessment areas and yet still receive an overall Satisfactory or Outstanding rating. So, under the new proposal, banks can “pass” by failing.

Additionally, the various thresholds in the proposal appear arbitrary and not based on data made available to the public. If the OCC was relying on certain data, it should have made that data and methodology available in the proposal. If there in fact are no such supporting data, then that raises perhaps an even more troubling question: what is the foundation upon which the OCC proposes to make such sweeping and damaging changes to the CRA? Federal Reserve Board Governor Lael Brainard, in her recent remarks before the Urban Institute, noted that it was more important to get CRA rule changes done right than done quickly, that any rule should be based on rigorous data analysis that is made available to the public, and that the rule adhere to CRA's core principles.¹²

The point about the OCC not having or sharing the data that provide the foundational support for the proposal is further highlighted by the OCC itself, which just recently

[reform/](#) (reviewing, Lei Ding and Carolina K. Reid, “The Community Reinvestment Act (CRA) and Bank Branching Patterns,” Federal Reserve Bank of Philadelphia, Working Papers Research Department, WP 19-36, September 2019).

¹¹ Community Reinvestment Act, 12 U.S.C. §2901(a).

¹² Governor Lael Brainard, “Strengthening the Community Reinvestment Act by Staying True to Its Core Purposes,” speech delivered at the Urban Institute, January 8, 2020, available at:

<https://www.federalreserve.gov/newsevents/speech/brainard20200108a.htm>

issued a Request for Information of financial institutions. The OCC seeks public input from banks with this request for information to assist in determining how the proposed rule might be revised to ensure that the final rule better achieves the statute's purpose of encouraging banks to help serve their communities by making the framework more objective, transparent, consistent, and easy to understand. Banks are asked by the OCC to respond to the RFI by March 10, 2020, the same time frame for the NPR comment period. The information gleaned from the RFI, which the OCC intends to use to potentially refine the propose rule,¹³ will not be made available to the public for review and analysis before public comments are due under the NPR. This is not a fair, transparent and thoughtful process.

- *(CRA) Credit on top of (tax) credit for stadiums and displacement over affordable housing?* As just one example of how the proposal prioritizes displacement over meaningful community development, nonprofit affordable housing developers may see a DECREASE in much needed Low Income Housing Tax Credit (LIHTC) tax credit investment,¹⁴ while the regulators will give banks CRA credit for investing in qualified Opportunity Zone funds in low income areas, including investments in athletic stadiums, self-storage facilities, and luxury housing that will likely result in displacement of the very low-income residents and small businesses meant to benefit from the CRA.
- *There should be greater scrutiny of bad bank practices, not less.* The proposal does nothing to address banks' displacement mortgages which finance rental housing that will foreseeably lead to displacement and eviction of low and moderate income people and people of color by, for example, underwriting loans to higher rents than what tenants are currently paying, or financing problematic landlords that displace or harass their tenants.

The proposal, as it must, allows for a possible downgrade of a CRA rating if there is evidence of discrimination or illegal credit practices. But the OCC has previously taken two harmful stances that have given banks greater latitude to engage in wrongdoing: 1) the OCC has suggested that generally, double downgrades in CRA ratings for discriminatory or illegal credit practices will not be delivered¹⁵; and 2) the OCC has narrowed the circumstances under which evidence of discrimination will result in downgrades.¹⁶ These policies combined suggest that actual and accepted evidence of

¹³ See OCC Bulletin 2020-4, "Community Reinvestment Act: Request for Public Input," January 9, 2020, available at: <https://www.occ.gov/news-issuances/federal-register/2019/nr-ia-2019-147-federal-register.pdf>.

¹⁴ Donna Kimura, "CRA Proposal Draws Concerns from Affordable Housing Leaders," Affordable Housing Finance, December 13, 2019.

¹⁵ OCC Bulletin 2018-23, August 15, 2018 and Policies and Procedures Manual, PPM 5000-43, "Impact of Evidence of Discriminatory or Other Illegal Credit Practices on Community Reinvestment Act Ratings," August 15, 2018, wherein the OCC clarifies that the general policy of the OCC is to downgrade a rating by only one rating level unless such illegal practices are found to be "particularly egregious."

¹⁶ OCC Bulletin 2018-23, August 15, 2018, and Policies and Procedures Manual, PPM 5000-43, "Impact of Evidence of Discriminatory or Other Illegal Credit Practices on Community Reinvestment Act Ratings," August 15,

discrimination can still result in a Satisfactory or Outstanding rating, and that under one reading of the OCC's deeply flawed policies, even potentially criminal conduct such as the Wells Fargo Bank account opening scandal may not necessarily result in a "failing" CRA rating if the Bank otherwise is an Outstanding CRA performer.

Further, the proposal seeks to give credit for lending and investing activities of bank affiliates, but it is not clear that potential wrongdoing by such affiliates will be scrutinized or result in CRA downgrades. The financial crisis was a result, in part, of bank affiliates making subprime and nontraditional loans that were not sufficiently regulated by the banking agencies, much to our collective detriment. The proposal could well incentivize banks to engage in such reckless and harmful activities in the future.

- *The proposal reduces, and potentially eliminates, avenues for community input.* Importantly, the proposal would likely lead to far less meaningful community input as CRA implementation would move to formula-based approaches and rely on bank performance data that is less transparent and available to the public than is the case today. All of this comes at the expense of community input, community partnerships, and any activity that cannot be quantified. There is no apparent and meaningful way to incorporate community comments on local credit needs or on bank performance; community input comes second to target dollar goals.

We are not surprised by this proposal, given OCC leadership's hostility to the CRA

CRC and our members know firsthand how the Comptroller treats low income communities and communities of color from his tenure as CEO of OneWest Bank, one of the most problematic financial institutions CRC has encountered.

A problematic merger: In the 2014/2015 merger of CIT and OneWest Bank, we found much private gain for bank officers, much public subsidy in the form of lucrative foreclosure loss share agreements and forgiven TARP payments, but no public benefit.

A problematic CRA bank: While Comptroller Otting was CEO of OneWest Bank, OneWest was among the worst banks at reinvesting in LMI communities. CRC analysis of OneWest Bank reinvestment activities placed the Bank towards the bottom of all California banks analyzed, below their peers in meeting community credit needs and reinvesting in neighborhoods. As one example, according to the Bank's own CRA strategic plan, which the bank sought to keep

2018, wherein the OCC clarifies that it will consider lowering a CRA rating only if the evidence of discriminatory or illegal credit practices directly relates to the institution's CRA lending activities, and that full consideration is given to remedial measures taken by the bank. So, CRA ratings may not be lowered if discrimination occurs outside of the lending context, or even if there is evidence of discriminatory lending but the institution has taken what are deemed to be sufficient remedial measures.

confidential, affordable housing is identified as a critical need. But the Bank did seemingly very little to address this need. It devoted little of its already small pool of contributions for affordable housing, its home mortgage lending record was very weak and, we believe, discriminatory, it did not then offer a multi-family loan product, and it may have only participated in a limited way in the LIHTC program to support affordable rental housing development. With such strong nonprofit capacity in its assessment area, the bank's performance was shameful, and represented a wasted opportunity to address critical housing needs in the area. OneWest's poor CRA performance was not confined to mortgage lending as it made very few small business loans to small businesses,¹⁷ had roughly half the branch presence in LMI communities as its peers,¹⁸ and saw over 1,300 complaints filed against it with the Consumer Financial Protection Bureau.¹⁹

A redlining bank. Under Comptroller Otting's leadership, the bank's mortgage lending was not only weak, we believed it was discriminatory and illegal. As such, CRC filed its first HUD redlining complaint against OneWest Bank in November 2016. The complaint alleged that OneWest Bank's lending to borrowers in communities of color was low in absolute terms, low compared to its peer banks, and lower than one would expect, given the size of the Asian, African American and Latino populations in Southern California. As part of the complaint, an analysis of the bank's assessment areas found that OneWest had only 1 branch in an Asian-American majority census tract, and no branches in African American majority census tracts. Over a 2 year period, the bank only originated 2 mortgage loans to African Americans in the greater Los Angeles area. CRC was pleased to recently settle this complaint with CIT, the successor Bank to OneWest.²⁰

A Foreclosure Machine. It would be bad enough if OneWest merely did a poor job meeting community credit needs. But in fact, the Bank that Comptroller Otting ran inflicted substantial harm on communities and families through its mass foreclosures that inflicted great harm on families and communities. We estimate that OneWest foreclosed on over 35,000 foreclosures in California alone since February 2009, about a third of which occurred under Comptroller Otting's management at OneWest. The Bank foreclosed on 2,000 reverse mortgage borrowing

¹⁷ James Rufus Koren, "Steve Mnuchin's OneWest favored private equity firms, did little for small businesses lending," LA Times, January 19, 2017.

¹⁸ CRC 2015 analysis of bank branch data found 15% of OneWest branches were in LMI communities, compared to 30% for the rest of the industry.

¹⁹ For information on CFPB complaints filed against OneWest Bank during Joseph Otting's tenure as CEO, see CRC Fact Sheet available here: <http://calreinvest.org/wp-content/uploads/2018/07/CRC20Fact20Sheet20CFPB20Complaints20Against20OneWest.pdf>. Note that CFPB's Consumer Complaint Database was being introduced to the public in phases and may not have been live from the beginning of Mr. Otting's tenure at OneWest Bank, meaning that complaints would likely have been greater if the database was live and known to consumers earlier.

²⁰ Conciliation Agreement between California Reinvestment Coalition, and CIT Group, Inc., and CIT Bank, N.A., dba OneWest Bank, FHEO CASE NUMBER: 09-17-7199-8, available at: <http://calreinvest.org/wp-content/uploads/2019/07/CRC-v-CIT-CONCILIATION-AGREEMENT-07.26.19.pdf>

seniors, their widows and heirs in our state. Shockingly, CRC and Urban Strategies Council analysis found that fully 68% of OneWest foreclosures in California were in neighborhoods of color.²¹ A CRC FOIA request to the Department of Housing and Urban Development revealed that OneWest’s reverse mortgage company was responsible for nearly 40% of all foreclosures nationwide as part of the federal Home Equity Conversion Mortgage Program.²² A whistleblower lawsuit later required the Bank to pay \$89 million to settle charges of violations of the federal reverse mortgage program.²³ During Comptroller Otting’s tenure as CEO, the main way in which OneWest engaged with LMI communities was through foreclosure.

A “terrible” mortgage servicer. OWB was a “terrible” mortgage servicer. In our surveys of housing counselors over the years, OWB was frequently cited as among the worst. In 2010, OWB was the deemed the worst at offering loan modifications. In 2011, OWB got the most votes for being a “terrible” servicer. In 2012, OWB got the 2nd most votes for worst servicer. In addition, there were over 1,000 CFPB consumer complaints against OWB during this time, including 150 complaints about its reverse mortgage servicing, about 12% of all reverse mortgage complaints filed at that time. At OneWest Bank, Comptroller Otting ran a foreclosure machine, and made millions doing so.

“Widespread misconduct.” Not only did nonprofit housing counselors in California find OneWest foreclosure practices highly problematic, but the California Attorney General’s office found that the bank’s foreclosure practices during Comptroller Otting’s tenure showed evidence of “widespread misconduct.” Deputy Attorneys General in the Consumer Law Unit determined that OneWest rushed delinquent homeowners out of their homes by violating notice and waiting period statutes, illegally backdated key documents, and engaged in unlawful foreclosure auction activity, according to a leaked 2013 memo from the AG’s office that was published in January of 2017.²⁴

²¹ Based on CRC and Urban Strategies Council analysis of purchased foreclosure data, analyzing zip codes in which foreclosures were reported, and overlaying that data with demographic data for the zip codes. CRC statement on this analysis is available at: <http://calreinvest.org/press-release/coalition-calls-for-federal-investigation-into-impacts-on-communities-of-color-of-onewest-bank-foreclosures/>

²² A fact sheet on this FOIA request, with links to the FOIA request itself, and the response from HUD, can be found here: <http://calreinvest.org/wp-content/uploads/2018/08/CRC20Fact20Sheet20about20Financial20Freedom20Foreclosures20Since20April202009.pdf>

²³ CRC statement on \$89 million whistleblower settlement, along with a link to the release from whistleblower Sandy Jolley, available at: <http://calreinvest.org/press-release/89-million-dollar-whistleblower-settlement-at-company-formerly-led-by-steve-mnuchin-and-joseph-otting/>

²⁴ David Dayen, “TREASURY NOMINEE STEVE MNUCHIN’S BANK ACCUSED OF “WIDESPREAD MISCONDUCT” IN LEAKED MEMO,” The Intercept, January 3, 2017. CRC statements and analysis on the leaked AG memo, available at: <http://calreinvest.org/press-release/memo-shows-evidence-of-illegal-foreclosure-practices-at-onewest-bank-while-steven-mnuchin-was-ceo/>

OCC Requires a Weak CRA Plan. Ultimately, the CIT/OneWest merger was approved in 2015, with the OCC negotiating a weak CRA Plan with OneWest Bank and Comptroller Otting. The Plan foreshadowed the OCC's current efforts, as it appeared to allow the bank to claim credit for activities that benefited upper income borrowers such as through mortgage loans or luxury condominiums.²⁵ CRC was one of 90 organizations that opposed the OneWest CRA Plan submitted to, and eventually approved by, the OCC.²⁶

We are not surprised by this proposal given OCC leadership's hostility to community groups and the public input process

Very little about the merger between Comptroller Otting's OneWest Bank and CIT was normal. CRC extensively documented our numerous concerns about the merger in a series of comment letters to banking regulators, Freedom of Information Act (FOIA) requests, research and data analysis and testimonials. The tactics OneWest Bank and Comptroller Otting utilized call into question whether the Comptroller has appropriate respect for the public input process.

Seeking Wall Street's Help to Lobby the Fed. One of the more bizarre aspects of the merger was Comptroller Otting's solicitation of support for the merger from his Wall Street contacts, contractors, and employees.²⁷ CRC obtained one of these solicitations, which asked recipients to go to OneWest Bank's website to submit a form letter to bank regulators. The form letter on the bank's website attested to the fact that the bank was being well managed (presumably by Comptroller Otting) and that OneWest Bank was doing a good job serving southern California communities (it wasn't), and that regulators did not need to hold public hearings on the merger. The letter provided no supporting data to justify or even explain the claims and conclusions made. How much weight should regulators give to a bank support letter submitted by a contractor who relies on business from the Bank CEO who requested the letter, or a letter from the CEO's Wall Street acquaintance who asserts, presumably based upon nothing but the request of the CEO, that the bank is doing a good job serving the community in Los Angeles, and there is no need for a public hearing on the merger? According to a report by the US Treasury Department, run by Steve Mnuchin, Comptroller Otting's former boss at OneWest Bank, equal

²⁵ See Paulina Gonzalez and John Taylor, "CRA Goals are the Casualty of CIT-OneWest Merger" American Banker, BankThink, June 21, 2016, available at: <https://www.americanbanker.com/opinion/cra-goals-are-the-casualty-of-cit-onewest-merger> and CRC release, available at: <http://calreinvest.org/press-release/california-reinvestment-coalition-denounces-occs-approval-of-cit-groups-new-cra-plan/>

²⁶ CRC release on the letter opposing the Bank's CRA Plan, available at: <http://calreinvest.org/press-release/90-community-organizations-urge-regulators-to-reject-onewest-banks-community-reinvestment-plan-and-stop-conditional-approval/>

²⁷ Matthew Monks and Elizabeth Drexheimer, "OneWest Seeks Wall Street's Help Lobbying Yellen on CIT," Bloomberg, January 8, 2015.

weight should be given to supporters and opponents of mergers.²⁸ We are concerned that such recommendations only encourage astroturfing by corporations which dilutes and distorts the public input process, by adding voices that are not necessarily interested or knowledgeable about the issues at hand, but are being employed primarily in the service of well-resourced and self-interested stakeholders.

Corrupting the public comment process via “fabricated comment letters.” CRC soon became concerned that what at first seemed to be a harmless PR miscue by the bank’s CEO in soliciting help from Wall Street cronies was actually something much more serious. CRC, genuinely surprised that people would actually be in support of this problematic merger, began to look at the letters of support submitted in favor of the Bank, at the Bank’s direction, and often via the Bank’s website. We observed a number of anomalies, including several emails with similar address formatting, an unusually large number of yahoo.com addresses given Yahoo’s smaller market share, and a few hundred emails that appeared to have been submitted at the same time early in the morning on Valentine’s Day. Subsequent investigation found approximately one-third of emails sent to addresses of “supporters” of the merger bounced back, including from some with questionable addresses such as goeypooey69@yahoo.com.²⁹ Our fears were confirmed when CRC received a call from one such “supporter” of the merger who was upset that his identify had been stolen and that his email address had been used to support a bank merger he had never heard about before. CRC, along with Inner City Press/Fair Finance Watch, then submitted a detailed FOIA request to the OCC seeking documentation relating to potentially false letters of support being filed as part of the merger process. The OCC produced in response, amongst other things, a file labelled by the OCC “OneWest CIT Bank Merger Fabricated Comment Letters,” that includes documents reflecting four email exchanges with the OCC from “supporters” of the merger who did not affirmatively support or even know about the merger. How many “supporters” of the merger were not supporters of the merger, or where not even actual human beings for that matter? We don’t know. But that didn’t stop the Federal Reserve and the OCC from citing the “support” letters in the orders approving the merger of CIT and OneWest. CRC has called for an investigation into who was responsible for the fabricated emails, for changes to ensure that false bank support for a merger cannot again be allowed to corrupt the public comment process, and for the regulators to revise their orders to reflect that the support for the OneWest merger was suspicious at best.³⁰ Under Comptroller Otting, we are not aware that any of these remedies have been pursued or even considered.

Having a Hard Time – Hostility to the CRA and community groups. The Comptroller’s motive in pushing ahead to reform CRA rules, despite overwhelming opposition from community groups

²⁸ In a report issued under Secretary of the Treasury Mnuchin, Treasury notes that “regulators should give careful and equal weight to the views of individuals who support and oppose the activity,” from, “A Financial System That Creates Economic Opportunities: Banks and Credit Unions,” U.S. Department of the Treasury, June 2017.

²⁹ See David Dayen, “The Fake Public Comments Supporting a Bank Merger Are Coming from Inside The House,” The Intercept, September 29, 2018.

³⁰ FOIA request submitted by CRC and ICP, as well as OCC responses, are available at: <http://calreinvest.org/wp-content/uploads/2018/10/CRC-FOIA-Request.pdf>

and some concern from industry, appears clear to us. We have seen how, in our view, his bank failed to comply with the CRA and Fair Housing Act requirements. We also have his comments on the subject. According to the Wall Street Journal, Comptroller Otting explained at a 2018 banking conference, describing his experience with community groups holding OneWest accountable during the merger with CIT, “I went through a very difficult period with some community groups that . . . tried to change the direction of our merger. And so I have very strong viewpoints. He has said that community groups should not be able to use the public comment process to “pole vault in and hold [bankers] hostage” during mergers.³¹ Later, he was quoted in the American Banker as saying, “During an exam cycle, if a bank wants “to open a branch, close a branch or make an acquisition, certain community groups know how to . . . hold you hostage during that process and *they use your lack of compliance in between the reviews in order to be able to do that.*”³² Perhaps most alarmingly, Comptroller Otting was quoted as saying “... We won’t tolerate groups that do not provide services to these communities to disrupt the process and affect our decisions.”³³ This last comment is astonishing and suggests that this Comptroller cannot be trusted to impartially consider public comments from community groups, just as he is soliciting public comment on plans to weaken the nation’s primary anti-redlining law.

Chilling speech. The OCC later took the unusual step of sending us two separate letters admonishing CRC for comments relating to the OCC’s efforts to weaken the CRA. Both letters were sent by Deputy Comptroller Wides on OCC letterhead. CRC and Democracy Forward have submitted a FOIA request to the OCC to determine if other groups received such letters, the nature of any internal OCC communication about CRC, and whether there are any indicia of fabricated emails corrupting the current CRA reform process.³⁴ Not content to issue the two letters, Deputy Comptroller Wides and the OCC also submitted an op-ed to the American Banker chastising community groups for not contributing positively to the discussion about CRA reform.³⁵ Apparently, all comments and speech are welcome by the OCC, unless it is critical of the OCC actions and intentions. I felt compelled to respond to this op-ed with one of my own, asking what the OCC is afraid of.³⁶

Using his bully pulpit to attack us. At a hearing of the Senate Banking Committee, U.S. Senator Catherine Cortez Masto (D-Nev.) questioned Comptroller of the Currency Comptroller Otting

³¹ See David Dayen, “The Fake Public Comments Supporting a Bank Merger Are Coming from Inside The House,” The Intercept, September 29, 2018.

³² Rachel Witkowski, “5 items on the OCC chief’s reg relief to-do list,” American Banker, April 9, 2019.

³³ “Q&A with Comptroller Joseph Otting,” available at:

https://www.cbaofga.com/uploads/1/2/3/8/123887871/qa_comptroller_otting.pdf

³⁴ Press release from CRC and Democracy Forward, with links to the FOIA request, is available here:

<http://calreinvest.org/press-release/coalition-of-community-orgs-seeks-records-on-trump-administrations-attempt-to-silence-opposition-to-gutting-anti-redlining-rules/>

³⁵ Barry Wides, BankThink: “Setting the Record Straight on CRA Reform,” American Banker, March 25, 2019, available at: <https://www.americanbanker.com/opinion/setting-the-record-straight-on-cra-reform>.

³⁶ Paulina Gonzalez-Brito, BankThink: “Why is OCC Scared of Public Input,” American Banker, April 8, 2019, available at: <https://www.americanbanker.com/opinion/why-is-occ-scared-of-public-input>

about his office's unprecedented decision to publicly chastise critics of its proposed changes to the Community Reinvestment Act (CRA). When asked about efforts to "silence" and "scold" CRC, Comptroller Otting said that "that particular organization was dispelling false information" and that groups "can't go out and say false things." When asked about his comments that community groups came in at the bottom of the ninth inning to hold banks hostage, Comptroller Otting indicated that those comments were accurate, and that there was "overwhelming support in our community for the merger and groups came from outside the community that had no input, no data, were not familiar with our organization and tried to stop the merger."

In fact, the OneWest/CIT merger was perhaps the most protested merger in U.S. history to that point, with over 100 groups and 21,000 individuals opposing the merger. We believe a clear majority of groups commenting on the merger from Southern California opposed the merger. Further, CRC takes issue with Comptroller Otting's assertion that no data or input was presented, as CRC and allies submitted numerous comment letters; conducted analysis of publicly available Home Mortgage Disclosure Act (HMDA) mortgage, CRA small business, and branch and deposit data; issued at least three FOIA requests to three federal agencies for relevant data; conducted and analyzed several nonprofit housing counseling surveys; purchased, analyzed and mapped foreclosure data after the Bank refused to disclose any such data to the public; and provided numerous testimonials of nonprofit organizations and consumers with direct experience with the bank. It is quite possible that there has never been a merger where more data, information and testimony relating to community and consumer impact was presented than regarding his bank. If the Comptroller finds that the record of that merger reflected no data worthy of consideration, how can he be viewed as a fair and unbiased deliberator when it comes to community input in the merger or rule-making process?

Lastly, in the exchange with Senator Cortez Masto, Mr. Otting dismisses CRC, a statewide organization with a plurality of organizational members in Southern California, as a "northern CA based organization," because his bank was a southern California based institution.³⁷ By contrast, the one group that organized support for the bank appears to be based in Daly City, about 10 minutes south of CRC's main office in San Francisco. Comptroller Otting also did not appear to be dismissive of comments in support of the merger that he solicited from his Wall Street contacts located outside of the state. It is also unclear what he thinks about letters of support for the bank that were fraudulently submitted. What is the OCC's position on which comments will be read and considered, and from whom?

Any role for the community? Taken as a whole, the Comptroller's words and deeds suggest that community groups and members of the public with a differing viewpoint from the Comptroller will not be given fair consideration by this OCC. We see this in the Comptroller continually

³⁷ All references to the exchange between Comptroller Otting and Senator Cortez Masto reflect good faith efforts, the absence of a transcript, to capture the conversation as observed in the video posted on Senator Cortez Masto's website, available at: <https://www.cortezmasto.senate.gov/news/videos/watch/cortez-masto-grills-otting-about-administrations-efforts-to-silence-critics>

touting how many groups he has met with and how many comments received in response to the Advanced Notice of Proposed Rulemaking, yet issuing a Proposed Rule that does not reflect those comments. As for the proposed changes to the CRA, the OCC apparently is very interested in hearing from the public, but insists on an unreasonably short 60-day public comment period during which community groups and other stakeholders are expected to analyze and comment on this long, complex proposal which would have huge impacts on communities, and despite a request from several members of Congress to extend the comment period to 120 days.³⁸ Community input and public participation are at the heart of the CRA. We fear these core principles of the CRA are in jeopardy under this OCC which seeks to stifle dissent and minimize involvement by community groups in the very reinvestment assessments and decisions that impact them greatly.

Conclusion

Mr. Chairman and members of the Subcommittee, thank you again for the opportunity to testify today. The California Reinvestment Coalition looks forward to working with you to ensure that communities do not lose out while important protections, like the Community Reinvestment Act regulations, are weakened as part of a deregulatory scheme designed to benefit the largest and most powerful conversations.

³⁸ Neil Haggerty, “Maxine Waters to crash FDIC meeting on CRA revamp,” American Banker, December 12, 2019 (referencing a letter from Chair Waters and all of the Democrats on the Housing Financial Services and Senate Banking Committees to the FDIC and the OCC, asking them to allow for a 120-day comment period on the CRA proposal).



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June 16, 2015

Janet Yellen
Chair
Federal Reserve Board of Governors

Thomas Curry
Comptroller
Office of the Comptroller of the Currency

Martin Gruenberg
Chair
Federal Deposit Insurance Corporation

Mel Watt
Director
Federal Housing Finance Agency

Richard Cordray
Director
Consumer Financial Protection Bureau

Julian Castro
Secretary
Dept. of Housing and Urban Development

Loretta Lynch
Attorney General
United States Department of Justice

Re: *CRC calls for fair lending/fair housing investigation of OneWest Bank: 8th Comment Letter opposing proposed merger of OneWest and CIT Group*

Dear Chairs Yellen and Gruenberg, Directors Watt and Cordray, Comptroller Curry, Secretary Castro, and Attorney General Lynch,

The California Reinvestment Coalition writes this eighth comment letter in opposition to the proposed merger of the holding companies and banks represented by OneWest (OWB) and CIT Group.



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CRC is specifically calling on federal regulators to conduct a fair housing and fair lending investigation of OneWest bank and its activities relating to:

- 1) Foreclosures that are located disproportionately in neighborhoods of color;
- 2) Weak home lending to Asian American and Pacific Islander (AAPI) and African American borrowers;
- 3) Low branch presence in Low and Moderate-Income (LMI) neighborhoods and neighborhoods of color;
- 4) Allegations of disparate REO property maintenance and marketing in neighborhoods of color, as compared to white neighborhoods;
- 5) Servicing and foreclosure practices impacting seniors and women, in particular, Non Borrower Spouses of deceased reverse mortgage borrowers; and
- 6) Arbitrary use of discretion in servicing reverse mortgages.

The California Reinvestment Coalition (CRC), based in San Francisco, is a non-profit membership organization of community based non-profit organizations and public agencies across the state of California. We work with community-based organizations to promote the economic revitalization of California's low-income communities and communities of color through access to equitable and low cost financial services. CRC promotes increased access to credit for affordable housing and community economic development, and to financial services for these communities.

In this letter, we present new foreclosure data, mapping and analysis that suggests that OneWest's 36,382 foreclosures are disproportionately located in neighborhoods of color. We combine this new foreclosure data and analysis with prior comments and analysis showing additional disparities in OneWest's home lending, branch presence, REO property marketing and maintenance, and reverse mortgage servicing and foreclosures on seniors and widows. All of these facts, when combined, paint a disturbing picture of how OneWest is impacting low and moderate income communities and communities of color, and warrants further fair lending and fair housing investigation and potentially, enforcement.

1) Foreclosure are located disproportionately in neighborhoods of color

For months, CRC has sought information about OneWest's foreclosure practices in California. Despite collecting over a billion dollars from the FDIC for costs related to foreclosures, the bank refused to publicly share this information, so CRC worked with Urban Strategies Council to purchase and analyze California foreclosure data for OneWest, Indymac and Financial Freedom from April 2009, when OneWest investors took over Indymac, until April 2015.



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Please note that CRC still seeks data regarding the total number of foreclosures OneWest has processed across the country, as well as the number of pending foreclosures in OneWest’s and Financial Freedom’s foreclosure pipelines. The data presented here are limited further in that they do not account for short sales, deeds in lieu, and other foreclosure alternatives that result in homeowners losing their homes against their wishes, but which are not tracked as a “completed foreclosure” in the data.

1a. OneWest has foreclosed on a large number of households in California.

Since April 2009 through April 2015, OneWest has foreclosed on 36,382 California households. This calls into question how OneWest Bank is meeting its obligation to meet the community’s credit needs under the Community Reinvestment Act.

Figure 1: OneWest, IndyMac, Financial Freedom foreclosures in California from April 2009 to April 2015

OneWest	IndyMac	OneWest and IndyMac	Financial Freedom	Total
16,113	17,810	33,923	2,459	36,382

Figure 2: Top 10 counties for IndyMac and OneWest foreclosures (excluding Financial Freedom) from April 2009 to April 2015

County	Indymac	OneWest	Total	Percent
LOS ANGELES	4,216	3,703	7,919	23%
RIVERSIDE	2,191	2,106	4,297	13%
SAN BERNARDINO	1,795	1,890	3,685	11%
SAN DIEGO	1,185	1,138	2,323	7%
ORANGE	1,004	843	1,847	5%
SACRAMENTO	1,138	436	1,574	5%
KERN	475	572	1,047	3%
ALAMEDA	437	504	941	3%
CONTRA COSTA	725	207	932	3%
Total	13,166	11,399	24,565	72%



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Figure 3: Top 10 counties for Financial Freedom foreclosures from April 2009 to April 2015

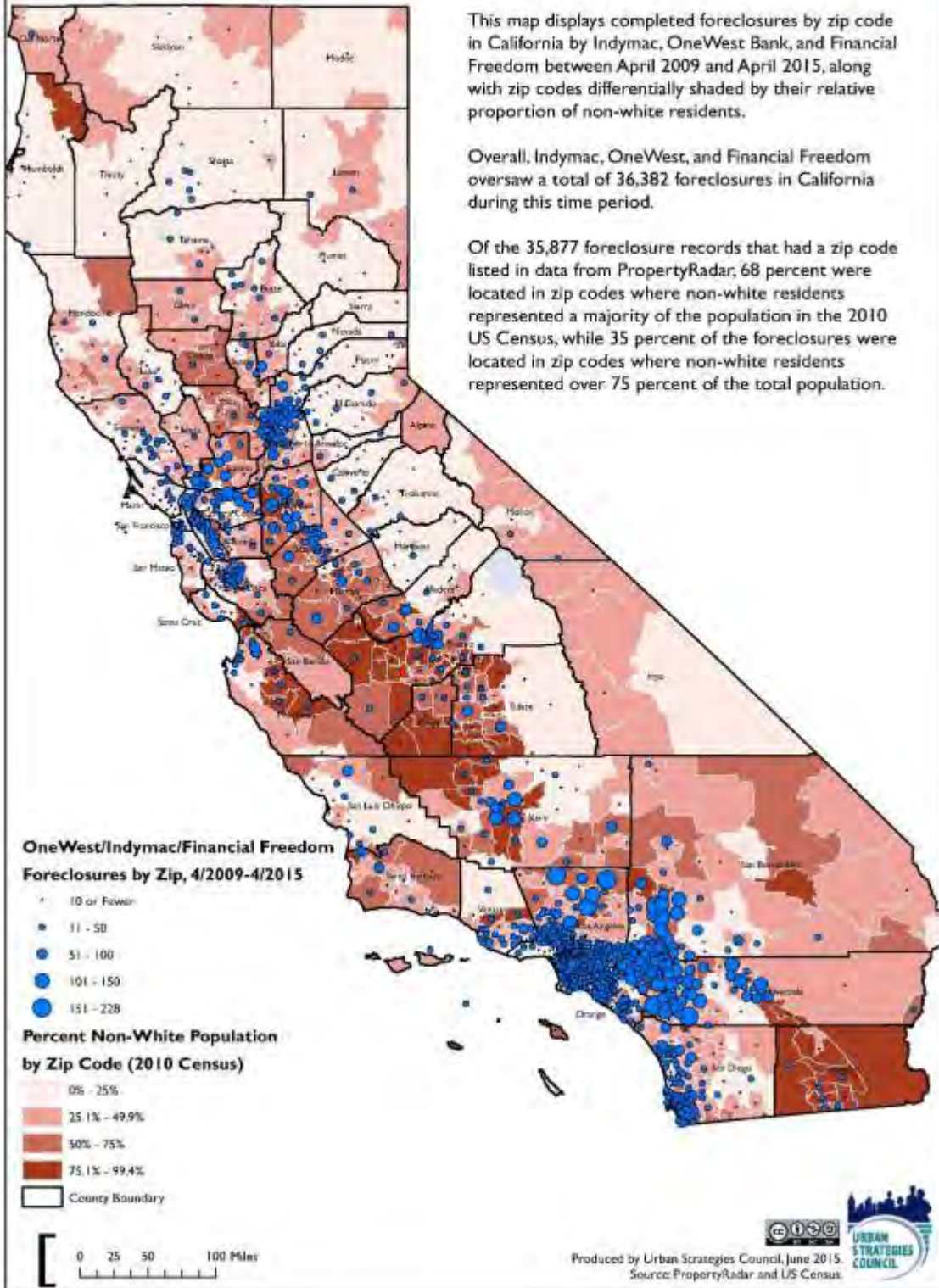
County	Financial Freedom Foreclosures	Percent
LOS ANGELES	498	20%
SAN BERNARDINO	287	12%
RIVERSIDE	267	11%
SACRAMENTO	200	8%
SAN DIEGO	187	8%
KERN	123	5%
ORANGE	102	4%
FRESNO	83	3%
SAN JOAQUIN	68	3%
Total	1,815	74%

Figure 4: The map on the next page shows where OneWest foreclosures in California have been located.



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Indymac, OneWest, & Financial Freedom Foreclosures with Non-White Population, by Zip Code

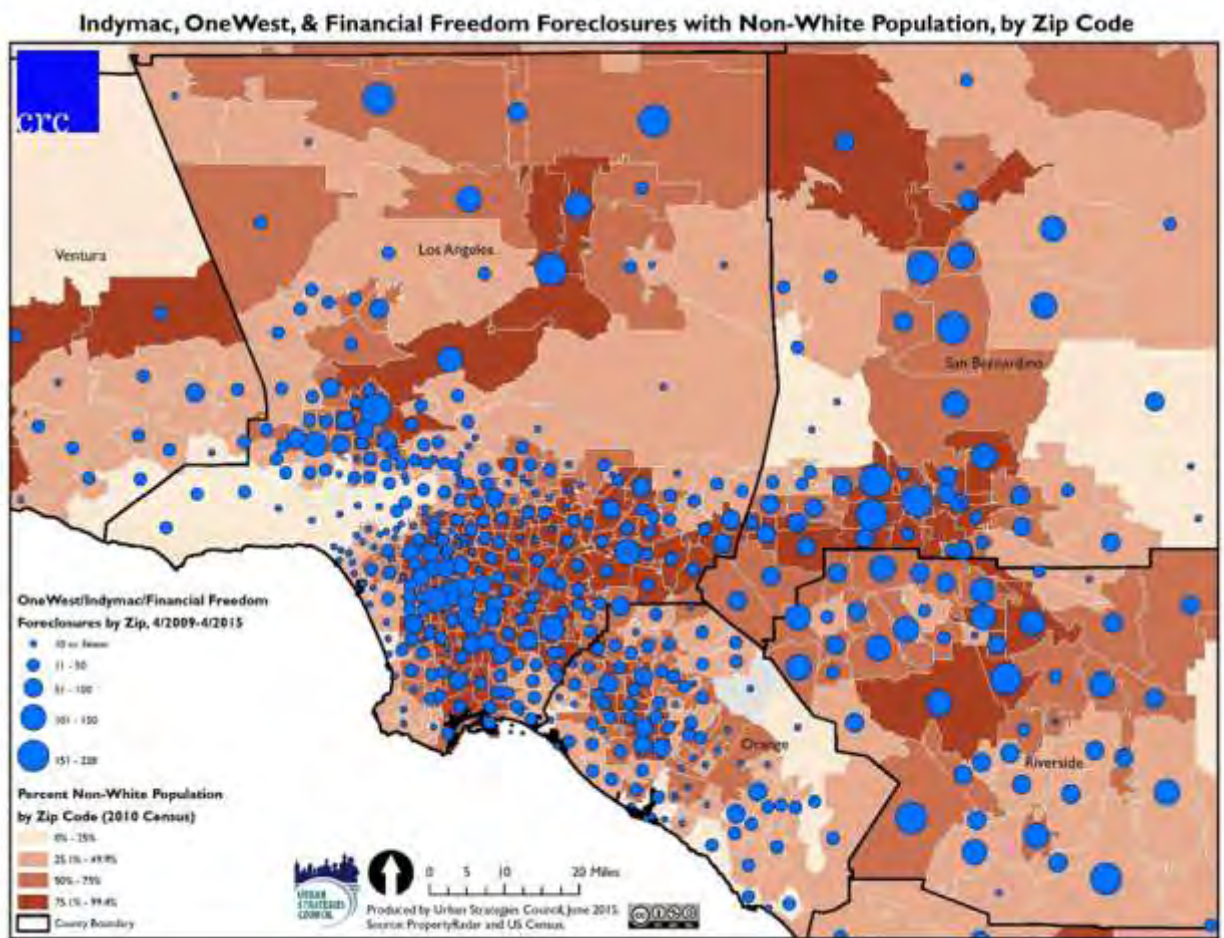




1b. OneWest foreclosures appear to be concentrated in communities of color.

Of particular concern is that most of these California foreclosures are in communities of color. Of the 36,382 California foreclosures identified, 35,877 could be assigned to a zip code. Nearly 70% of these foreclosures, 24,471, occurred in zip codes where 50% or more of the residents are people of color. Further, 35% of these foreclosures, or 12,619, occurred in zip codes where 75% of the population is of color. Below is a map of OneWest foreclosures in Los Angeles, Orange, San Bernardino and Riverside Counties. The darker areas represent zip codes with a greater percentage of residents of color. The larger the blue dots, the more OneWest foreclosures processed in that zip code. Appendix I includes additional maps of OneWest foreclosures in California, by county.

Figure 5: Indymac, OneWest, Financial Freedom foreclosures, April 2009 to April 2015





1c. OneWest’s numerous and concentrated foreclosures come in the context of problematic servicing practices and performance regarding forward mortgage loans.

The disparate impact on communities of color from OneWest foreclosures is further concerning in light of the extent of the evidence of OneWest’s faulty servicing practices. Numerous complaints filed with the CFPB and the Bank itself, CRC housing counselor surveys, bountiful litigation, the Bank’s flouting of our state’s Homeowner Bill of Rights, HAMP Treasury reports, Independent Foreclosure Review findings, foreclosing on borrowers not in default, postponing embarrassing foreclosures, complaints from other industry professionals, rankings by JD Power and Associates, and testimony at the public hearing on the merger in Los Angeles in February (Public Hearing) all paint a picture of a problematic servicer where unnecessary foreclosures were likely, and where incentives to pad loss share and FHA claims may have led to abusive servicing practices. Below is a summary of various indicators of OneWest’s problematic servicing practices.

Evidence of Problematic Servicing: Numerous CFPB complaints. Consumers have filed over 1,263 complaints against OneWest Bank with the Consumer Financial Protection Bureau, with over 1,000 of the complaints related to mortgages, loan servicing and loan modifications.

Evidence of Problematic Servicing: Numerous complaints made directly to OneWest, even though OneWest arbitrarily reported out complaints only from the time period after it sold most of its servicing rights. The Federal Reserve Bank of New York (FRB) has asked the Applicant Bank to respond to several of its Additional Information (AI) requests, including the number of complaints that OneWest received related to various allegations of improper servicing and foreclosure. Besides not responding to this question directly, OneWest decided to provide information on complaints only for the period *after* which it sold MOST of its servicing rights.¹ This is nonresponsive to the FRB’s request, and is further evidence of the Bank’s penchant for misleading and obfuscation.

Further, despite the bank trying to shirk responsibility by pointing to its sale of a “substantial part of its mortgage servicing rights,” OneWest still managed to rack up 812 complaints, including over 200 relating to its reverse mortgage servicing practices. But again, this does not

¹ Sullivan and Cromwell, LLP, “RESPONSES TO THE REQUEST FOR ADDITIONAL INFORMATION DATED MARCH 17, 2015 FROM THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM IN CONNECTION WITH THE APPLICATION TO THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM RELATING TO THE PROPOSED ACQUISITION OF IMB HOLDCO LLC BY CIT GROUP INC. AND CARBON MERGER SUB LLC,” April 14, 2015, p. 11.



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even cover the period when OneWest most impacted its communities, especially Low and Moderate Income (LMI) communities and communities of color. The FRB must request again, and OneWest must provide, complaint data beginning from the time OneWest investors purchased IndyMac Bank.

It is also worth noting that the number of homeowners who could have filed complaints is likely much higher, especially considering the case of Michelle Ayers in Florida. When she sought assistance with the problems she faced with Financial Freedom, she first contacted HUD, who then referred her to NOVAD or NOVAC, who allegedly told her they could not assist because “the reverse mortgage is not through a HUD program.” She was then referred to the Office of Financial Regulations, who in turn referred her to the Office of the Comptroller of the Currency, who in turn referred her to the CFPB where she ultimately filed two complaints. For more, please see: “Sisters lose home after OneWest forecloses on Reverse Mortgage.”²

How many other consumers would have the time, energy and resolve to press on to file their complaints after being shuttled through 5 different regulatory agencies, especially if they are also mourning the recent death of a loved one?

Evidence of Problematic Servicing: California Housing Counselor Surveys rate OneWest poorly: During the time when OneWest was a large and active servicer of forward mortgages, housing counselors in California, who served thousands of consumers in distress each month during the heart of the foreclosure crisis, repeatedly rated OneWest among the worst servicers.³

- In a July 2010 survey, thirty housing counselors cited OWB as the worst offender for not offering affordable loan modifications, more than all fifteen of the other servicers surveyed.
- Later that year, only two servicers received more votes than OWB from housing counselors for being the most difficult servicer to work with when trying to help homeowners avoid foreclosure.
- In June of 2011, 50% of responding counselors rated OWB as “terrible,” a higher percentage than for all other eleven servicers considered. Counselor comments regarding OWB included:
 - “Indymac. Terrible customer service. Get the run around.”

² Lisa Greenberg, “NFM sisters chained to home to protest reverse mortgage,” Fox4 News, January 8, 2015, available at: <http://www.scrippsmedia.com/fox4now/news/NFM-sisters-chained-to-home-to-protest-reverse-mortgage-287977331.html>

³ CRC Housing Counselor surveys can be found at: <http://www.calreinvest.org/publications/california-reinvestment-coalition-research>



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- “IndyMac. The average processing time is 12 months. They continually request updated documents and state that they never received docs. It’s so frustrating. Even when you escalate the file the same results occur, having to update docs continually for months on end.”
 - “Chase and OneWest (Indymac) are in a tie. Both entities string along homeowners with hopes of obtaining a modification and ultimately denying the hardship request due to ‘excessive forbearance.’ It almost appears to be done intentionally rather than being a capacity issue.”
 - “We are having a difficult time with Chase’s and IndyMac’s customer service representatives. We get an entirely different request each time we call even when the documents are in their system and they can see them. They are not able to explain what else is needed.”
 - “IndyMac/OneWest hardly ever gives loan mods.”
 - “Indymac Bank/OneWest, they constantly lose documents.”
 - “Indymac. Customer service reps are incompetent, oppositional, and frequently fail to take notes. I have established gross income figures three times in one case only to have the rep on the phone fail to find record in their notes of my previous phone call. Difficult specific RMA forms, and just plain nasty customer service rep attitudes.”
 - “Indymac is one of the worst. Not willing to work with the homeowner at all.”
- In a February 2012 survey, 95% of responding counselors said OWB was “terrible” or “bad”, the second worst rating of all servicers considered.
 - That same survey year, OWB was voted second “worst servicer.” Some comments from counselors about OWB in response to a question about the worst servicer included:
 - “Indymac: Their ability to receive documents (unless it is online) is atrocious. They seemingly are always missing docs that are already there. Their online portal is limited in data transfer capacity. Some of their loans are insured, giving them no motive to modify.”
 - “Indymac has the worst performance in terms of foreclosure prevention. Very difficult to obtain any assistance. We had a client that was a victim of dual tracking and had their home foreclosed on.”
 - “OneWest Bank/Indymac. They continue to request updated documents forever.”



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Evidence of Problematic Servicing: Litigation: Significantly, earlier this year a federal court unsealed a False Claims Act complaint against OWB alleging that OWB routinely violated the HAMP program and FHA loss mitigation rules. In *United States ex rel Fisher vs. OneWest Bank FSB*, the complaint also alleged that OWB “almost always” added new debt to the borrower’s loan balance.

Other litigation. OWB and its servicing operations have been the subject of additional litigation, including:

- In *Sayonara Reyes et al vs. IndyMac Mortgage Services*, a division of OneWest Bank, a class action complaint was filed against OWB with claims of breach of contract, breach of the implied covenant of good faith and fair dealing, promissory estoppel and violation of the Massachusetts state law alleging a failure to honor trial period payment plans.
- In *Maloney v IndyMac Mortgage Services*, OneWest Bank, a class action complaint was filed alleging that OWB required certain borrowers to purchase flood insurance in excess of what their mortgage contract and federal law requires.
- In *Fletcher vs. IndyMac/OneWest Bank*, a putative class action complaint was filed alleging OMB mishandled plaintiff’s HAMP application and that OWB’s practices fell into a pattern of misconduct.
- In 2013, a San Luis Obispo couple received a million dollar plus settlement from OWB for foreclosing on them while they believed they were negotiating for a loan modification.
- The California HBOR Collaborative compendium of cases includes *Rogers v OneWest Bank FSB*, *Rigali v OneWest Bank*, *Jamil-Pahan v OneWest Bank*, and *DiRienzo v OneWest Bank FSB*, relating to issues of dual tracking and fair credit reporting.

The FRB requested of OWB litigation information relating to concerns raised at the Public Hearing on the merger. It is unclear why the FRB allowed OneWest to focus narrowly only on issues raised by those able to testify at the hearing, as opposed to all of those submitting written testimony, to say nothing of any questions the FRB and the OCC would have about OWB servicing and foreclosure practices based on their own due diligence.

As one example, the Response fails to note *Gorsuch v. Financial Freedom, et. al.*, the case of a woman in Toledo, OH, facing eviction by Financial Freedom because of the fees associated with forced-placed insurance. Though force-placed insurance is permitted, it is often vastly more expensive than standard insurance coverage. Ms. Gorsuch alleges that Financial Freedom



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misrepresented that the cost of force-placed insurance was necessary in order to protect the value of, and the lender's interest in, the secured property. Further, she alleges that Financial Freedom did not disclose the nature of the kickbacks—that Financial Freedom would receive payment based on a percentage of the cost of the premium. Because of the fees associated with her force-placed policy, Financial Freedom is threatening Ms. Gorsuch with foreclosure. Ms. Gorsuch recently filed an amended complaint and the court rejected OneWest's Motion to Dismiss.⁴

Relatedly, the *Washington Post* reported on a recent, \$140 million class action settlement over allegations that Ocwen, a large mortgage servicer, and Assurant, a large insurance company, engaged in an unlawful kickback scheme in imposing forced placed insurance on unsuspecting borrowers. The article refers to a couple of cases that were complicated by a loan transfer to Ocwen.⁵ Given that OneWest sold a substantial portion of its servicing rights to Ocwen (and that Ocwen has been suffering significant legal and regulatory setbacks, including with the California Department of Business Oversight), and that, as we believe, OneWest may have a business relationship with Assurant, the FRB, the OCC and the CFPB should investigate further whether OneWest has met all of its legal and contractual obligations with respect to forced placed insurance and mortgage servicing transfers. The FRB should further require OneWest to report on ALL of its mortgage, servicing, and foreclosure related litigation.

Nevertheless, the Response to the narrow litigation question posed by the FRB reveals that in fact a number of cases have been filed alleging violations of law relating to issues raised at the one day Public Hearing. Strangely, there is no "TOTAL" in the chart provided by the Bank in its response to the FRB, but it appears that there are nearly 200 claims that have been made against OneWest relating only to the foreclosure and servicing issues that were raised during the one day Public Hearing.⁶ That is substantial.

Evidence of Problematic Servicing: OneWest flouts California's Homeowner Bill of Rights. OneWest has put forth the dubious and harmful argument that OneWest foreclosures are not subject to our state's hard fought, landmark Homeowner Bill of Rights (HBOR) if the loan it's

⁴ Amended Complaint, *Gorsuch v. Financial Freedom et. al*, 3:14-cv-00152-JZ, filed 02/24/2015.

⁵ Ken Harney, "Allegedly abusive mortgage insurance deals lead to class action settlement," *Washington Post*, May 6, 2015 at http://www.washingtonpost.com/realestate/allegedly-abusive-mortgage-insurance-deals-lead-to-class-actionsettlement/2015/05/05/8c0eb764-f284-11e4-bcc4-e8141e5eb0c9_story.html

⁶ Sullivan and Cromwell, LLP, "RESPONSES TO THE REQUEST FOR ADDITIONAL INFORMATION DATED MARCH 17, 2015 FROM THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM IN CONNECTION WITH THE APPLICATION TO THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM RELATING TO THE PROPOSED ACQUISITION OF IMB HOLDCO LLC BY CIT GROUP INC. AND CARBON MERGER SUB LLC," April 14, 2015, pp. 15,, 16.



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foreclosing on was originated by a federally chartered thrift. In another response to an FRB AI request, the Bank provides a convoluted discussion of its practices relating to HBOR. OneWest claims that it complies with HBOR, but also that it is not subject to HBOR. These claims run counter to the experience of California homeowners, and the legal opinions of California advocates, the California Attorney General's office, and a growing number of courts. This argument is highly problematic in that it is OneWest's conduct not as a lender but as a loan servicer that is in question, and that such conduct is clearly subject to regulation by the state of California and HBOR. OneWest should immediately cease arguing preemption in the context of HBOR, and the OCC and state Department of Business Oversight should issue guidance to this effect. Further, the FDIC should investigate and determine that no loss share payments have been made on foreclosures resulting from dual track and Single Point of Contact (SPOC) violations committed by OneWest where the Bank argued that HBOR did not apply. In other words, the FDIC should not be paying or reimbursing OneWest for certain foreclosure costs where OneWest improperly argued that it did not have to follow state law protections against dual track and the obligation to provide a SPOC.

And in one of the many ironies that characterize this merger, OneWest CEO Joseph Otting is currently the Chair of the California Chamber of Commerce which inexplicably placed AB244 (Eggman), a bill that would clarify that HBOR protections extend to successors in interest (widows and orphans), on the Chamber's "jobs killer" list.⁷

Evidence of Problematic Servicing: Treasury reports raise concerns. Reports on servicer HAMP performance from the Treasury Department confirm OWB was more likely to foreclose on its borrowers than other banks. In the Program Performance Report Through November 2013, out of nine servicers participating, OneWest had the second highest rate of completed foreclosures for homeowners who were not accepted for a HAMP trial, as well as for those whom a HAMP permanent modification was denied. Similarly, in September of 2013, out of eight servicers participating, OneWest had the highest percentage of completed foreclosures for homeowners who were disqualified for a permanent loan modification.⁸

Evidence of Problematic Servicing: IFR Process raises concerns. Additionally, OWB cites the Independent Foreclosure Review process as a vindication of its efforts, though the April 2014 report it cites notes, "the consultant (for OneWest) had confirmed 10,781 (OneWest) borrowers

⁷ Tammerlin Drummond, "Mortgage help needed for relatives of deceased," Oakland Tribune, April 26, 2015, available at: http://www.contracostatimes.com/breaking-news/ci_27988835/drummond-mortgage-help-needed-relatives-deceased

⁸ Making Home Affordable Program Performance Reports can be found at: <http://www.treasury.gov/initiatives/financial-stability/reports/Pages/Making-Home-Affordable-Program-Performance-Report.aspx>



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(5.6 percent of the in-scope population of 192,199) were due remediation,” and that OneWest had a Service Members Civil Relief Act error rate of over 6%.⁹ Additionally, the Office of Thrift Supervision found OneWest engaged in numerous abuses, including filing affidavits that were not based on personal knowledge or review of relevant records, filing affidavits that were not properly notarized, initiating foreclosures without ensuring that promissory notes and mortgage documents were properly endorsed or assigned, failing to devote adequate staff and resources to ensure proper administration of foreclosure processes, and failing to adequately oversee third party agents who are processing foreclosures.¹⁰

Evidence of Problematic Servicing: Foreclosing on borrowers not in default. In responding to Federal Reserve Additional Information requests, CIT and OneWest cite approvingly the very low rate of foreclosures (1/100th of 1%) on 178,886 loans reviewed where the loan was not in default.¹¹

In other words, the Response touts OneWest’s record of very rarely foreclosing when the loans are in current payment status. But OneWest should NEVER be foreclosing on borrowers who are not in default. Where error rates are notes, regulators should determine whether those harmed by such servicing errors were members of protected classes, and whether OneWest violated fair lending laws in its policies or practices.

Of far greater and practical concern are those potentially numerous instances where borrowers were in default but were wrongly denied a loan modification or other home preservation alternative to foreclosure for which they qualified. Importantly, the IFR process focused on a very narrow set of “in scope” borrowers, those in the foreclosure process in 2009 and 2010. The regulators should ensure that OneWest and Financial Freedom provide review, and where applicable, relief, to all borrowers put into the foreclosure process from 2009 through the present.

Evidence of Problematic Servicing: Postponing embarrassing foreclosures. It was reported in the media that Financial Freedom was set to foreclose on 103 year-old Texas grandmother

⁹ Office of the Comptroller of the Currency, “Foreclosure-Related Consent Orders Status Report: Observations, Payments, and Foreclosure Prevention Assistance,” April 2014, pp. 14, 15.

¹⁰ Office of Thrift Supervision, In the Matter of OneWest Bank, FSB. Consent Order No. WN-11-011, April 13, 2011, available at: <http://www.occ.gov/static/ots/misc-docs/consent-orders-97665.pdf>

¹¹ Sullivan and Cromwell, LLP, “RESPONSES TO THE REQUEST FOR ADDITIONAL INFORMATION DATED MARCH 17, 2015 FROM THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM IN CONNECTION WITH THE APPLICATION TO THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM RELATING TO THE PROPOSED ACQUISITION OF IMB HOLDCO LLC BY CIT GROUP INC. AND CARBON MERGER SUB LLC,” April 14, 2015, p 7.



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Myrtle Lewis, who was sold a reverse mortgage when she was 92.¹² After media coverage, the Bank backed off. Similarly Janice Cooper, a 73 year-old widow with disabilities was slated for foreclosure from her Southern California home before an article about her appeared in the American Banker,¹³ at which point, Financial Freedom postponed the sale. Ms. Cooper was later given a new sale date. And OneWest was scheduled to foreclose on Teena Colebrook of San Luis Obispo (a homeowner who spoke at the Public Hearing about the many problems she faced with OneWest in trying to retain her home) on Christmas Eve before that case was brought to light. Will these three consumers get permanent help, or only temporary relief from OWB and FF until media attention dies down or the regulators approve of this merger?

To the extent these foreclosures were improper, would OWB and FF not only have taken these homes improperly, would they have also improperly billed the FDIC under the loss share, or HUD under the FHA insurance fund, for the “cost” of these improper foreclosures? Would the FDIC’s or FHA’s due diligence process for monitoring compliance with the loss share agreement or FHA insurance program have flagged these and other problematic cases, or merely processed payments to OWB for the losses to OneWest from these possibly improper foreclosures? How many cases like these have there been over the years where OWB and FF improperly foreclosed on families, and then improperly billed the FDIC under the loss share agreement, or HUD under the FHA HECM program? Do the FDIC and HUD truly have processes in place to effectively screen out improper foreclosures from claims submitted by OneWest?

Evidence of Problematic Servicing: Oral and written testimony submitted as part of the merger process. A number of consumers testified passionately at the February 26, 2015 Public Hearing, and many others have submitted written comments regarding their horrible experiences with OneWest Bank’s forward mortgage servicing. It may be that more consumers have been motivated by their bad experiences with OneWest to protest this bank merger by submitting formal comments and public testimony, than any other bank merger in history. Federal regulators must scrutinize the public record to determine if servicing, fair lending, and fair housing laws have been violated.

Evidence of Problematic Servicing: Industry professional notes OneWest mistake. A former loss mitigation executive for a large servicer recently asked CRC for help connecting with a non-bank servicer that had acquired the servicing rights for a neighbor’s loan from OneWest.

¹² Jack Douglas, Jr. “103-Year-Old North Texas Woman Fights To Keep Her House,” CBSWDF.com, November 21, 2014, at: <http://dfw.cbslocal.com/2014/11/21/103-year-old-north-texas-woman-fights-to-keep-her-house/>

¹³ Bonnie Sinnock, “HECM Non-Borrowing Spouses Renew Class Certification Attempts,” American Banker, November 17, 2014.



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This loss mitigation professional concluded that OneWest had erred in failing to offer a loan modification to his neighbor, but because they had already sold the servicing rights, he was forced to work with the new servicer to correct OneWest's mistake.

Evidence of Problematic Servicing: GAO Report identifies concerning trends. In February of last year, a GAO report found statistically significant differences in loan modification outcomes for Limited English Proficient and African American borrowers after analyzing non-public data of four unnamed servicers.¹⁴ CRC has sought the identities of the servicers involved, though neither Treasury nor GAO are prepared to release that data publicly at this time. These issues - the identity of the servicers in the GAO study, as well as the fair lending analysis of loan modification outcomes employed in that study - should be investigated further by the regulators before deciding upon this merger application.

Evidence of Problematic Servicing: OneWest's JD Power ranking has been low. In 2010, OneWest was ranked as the third worst servicer reviewed as part of the J.D. Powers Customer Satisfaction Index Ranking.¹⁵ In 2012, J.D. Power and Associates confirmed that OneWest Bank ranked 20th out of 23 servicers reviewed as part of its Customer Satisfaction Index Ranking.¹⁶

For all of these reasons, and others, CRC believes OneWest to be a problematic servicer, and that its concentrated foreclosures in communities of color need to be scrutinized further. Regulators need to investigate if communities of color are disproportionately bearing the consequence OneWest's problematic loan servicing practices.

1d. Concerns regarding FDIC Loss Share and the extent and location of future foreclosures.

CRC has previously raised concerns about the FDIC loss share agreement with OneWest. Whatever the benefits of entering into a loss share agreement with OneWest in order to sell Indymac assets, there is no public benefit to CIT Group being able to obtain the loss share agreement benefits from OneWest. And we have expressed concern that OWB may have improperly submitted claims to the FDIC for loss share payments (and to FHA under the HECM program) to cover foreclosures that did not need to happen.

¹⁴ U.S. General Accountability Office, "TROUBLED ASSET RELIEF PROGRAM: More Efforts Needed on Fair Lending Controls and Access for Non-English Speakers in Housing Programs," GAO-14-117: Published: Feb 6, 2014. Publicly Released: Feb 6, 2014.

¹⁵ J.D. Powers and Associates, "J.D. Power and Associates Reports: Mortgage Servicers Fail to Deliver on Best Practices During the Loan Modification Process," August 26, 2010.

¹⁶ J.D. Power and Associates, "J.D. Power and Association Reports: Amid Record-Low Interest Rates and Improved Loan Modification Programs, Customer Satisfaction Increases, July 19, 2012.



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Additionally, we remain concerned that these foreclosure numbers will continue to grow. CRC learned through our FOIA request that OneWest has received over \$1 billion through the lucrative loss share agreement with the FDIC. This represents over \$1 billion to cover certain costs associated with some of OneWest's 36,000+ California foreclosures, plus an untold number of foreclosures in other states.

What is alarming is that FDIC reports indicate an estimated, *additional \$1.4 billion* in loss share payments may yet flow to OneWest (and CIT Group, if this merger is approved) to cover certain, future foreclosure costs. How many future foreclosures does this represent? In what communities will these foreclosures be located? How is this providing a public benefit as must be demonstrated in order for this merger to be approved?

We urge the regulators to investigate and determine if the loss share agreement (where OWB and potentially CITBNA can now seek 95% of the value of certain foreclosure related costs), private insurance, and/or FHA insurance provide any financial incentive for OneWest to move quickly to instigate foreclosure proceedings, to pad foreclosure costs, and/or to complete unnecessary foreclosures.



2) Weak home lending to Asian American and Pacific Islander (AAPI) and African American borrowers

As noted in prior comment letters, OneWest home lending to African American and Asian American Pacific Islander (AAPI) borrowers is low. Specifically, in response to the Federal Reserve's Additional Information request, OneWest submitted the following numbers concerning its mortgage lending:

- In 2012, out of 43 home purchase and home improvement loans, OneWest made 0 loans to African Americans.
- In 2013, out of 26 home purchase and home improvement loans, OneWest made 0 loans to African Americans.
- In 2012, OneWest had a 10.1% AAPI origination market share, while its peers were at 24.2%, with OneWest at roughly half of the industry average.
- In 2013, OneWest similarly had an 11% AAPI origination market share, while its peers were at 23%, with OneWest at roughly half the industry average.
- *Again, these numbers come from OneWest in its prior filings with the regulators.*¹⁷

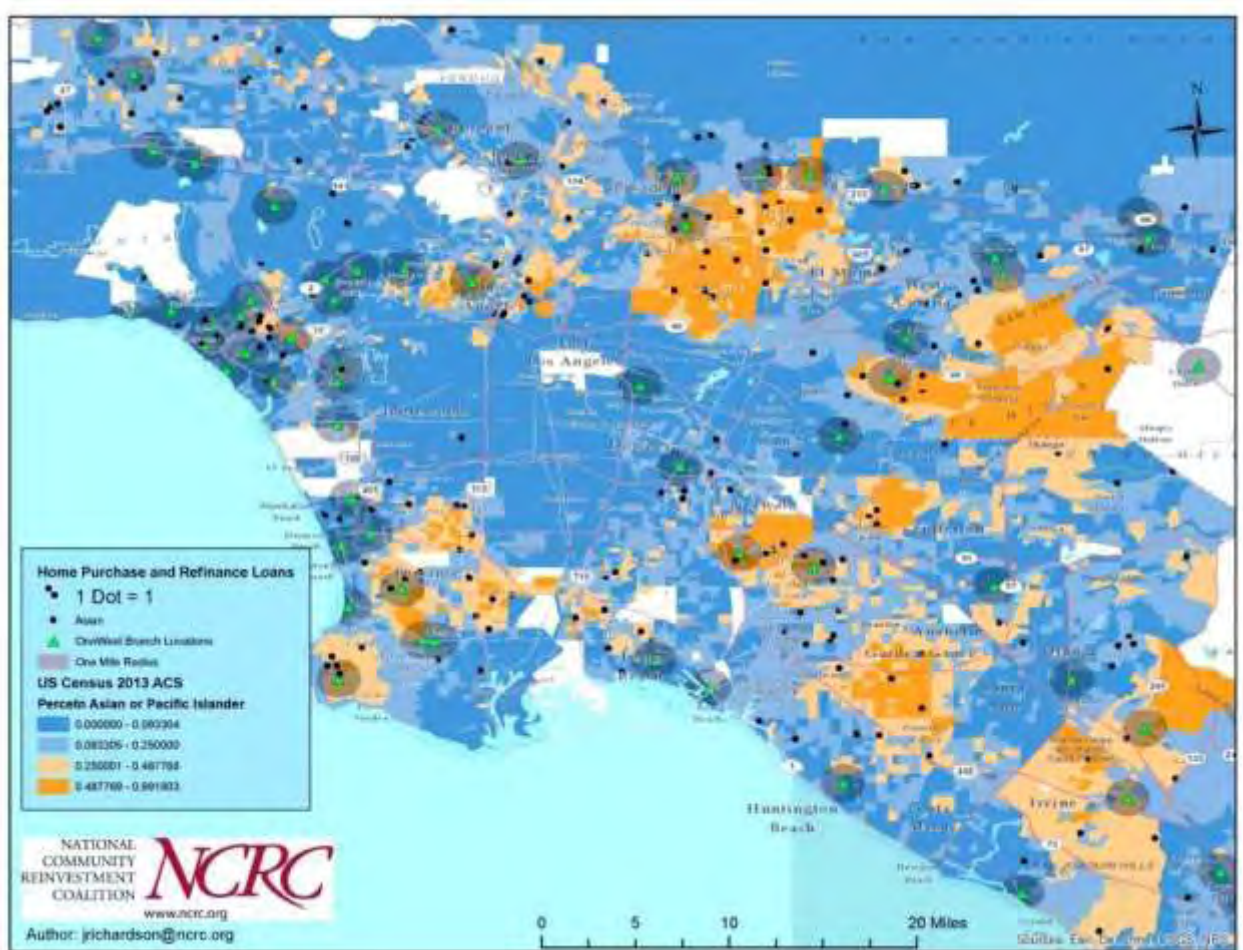
The OneWest reported numbers are consistent with CRC HMDA analysis: According to our analysis, OWB's 2012 HMDA data show it particularly underperformed the industry in regards to serving Asian American borrowers (4.6% of OWB originations in the state and 5.9% of its originations in the Los Angeles MSA were to "Asian" borrowers, while for the industry the figures were 15.9% and 15.8%, respectively).

In 2013, while the industry originated 16% of its conventional home purchase and refinance lending to Asian borrowers in California, OneWest originated only 7% of such loans to Asian borrowers.

¹⁷ Sullivan and Cromwell, LLP, "RESPONSES TO THE REQUEST FOR ADDITIONAL INFORMATION DATED DECEMBER 10, 2014 FROM THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM IN CONNECTION WITH THE APPLICATION TO THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM RELATING TO THE PROPOSED ACQUISITION OF IMB HOLDCO LLC BY CIT GROUP INC. AND CARBON MERGER SUB LLC, December 22, 2014, pp. 6, 7.

The map below shows home purchase and refinance lending by OneWest to Asian American owner occupants in the greater Los Angeles area. Each loan is depicted by one black dot. There are few home loans to Asian American borrowers. Additionally, OneWest branches are depicted in the first map by green triangles. The majority of OneWest branches avoid neighborhoods that are comprised of 25% to 100% Asian American residents. Such neighborhoods are depicted on the map in differing shades of orange. OneWest is not adequately meeting the needs of the Asian American Pacific Islander community in Los Angeles or California.

Figure 6: Home Purchase and Refinancing Lending by OneWest to Asian Americans in LA



OWB presents no reasonable explanation for this failing, and no credible plan for fixing this problem. The Department of Justice, CFPB, and HUD should investigate further and determine if fair housing or fair lending laws have been violated.



3) OneWest demonstrates a low branch presence in Low and Moderate-Income (LMI) neighborhoods and neighborhoods of color in California

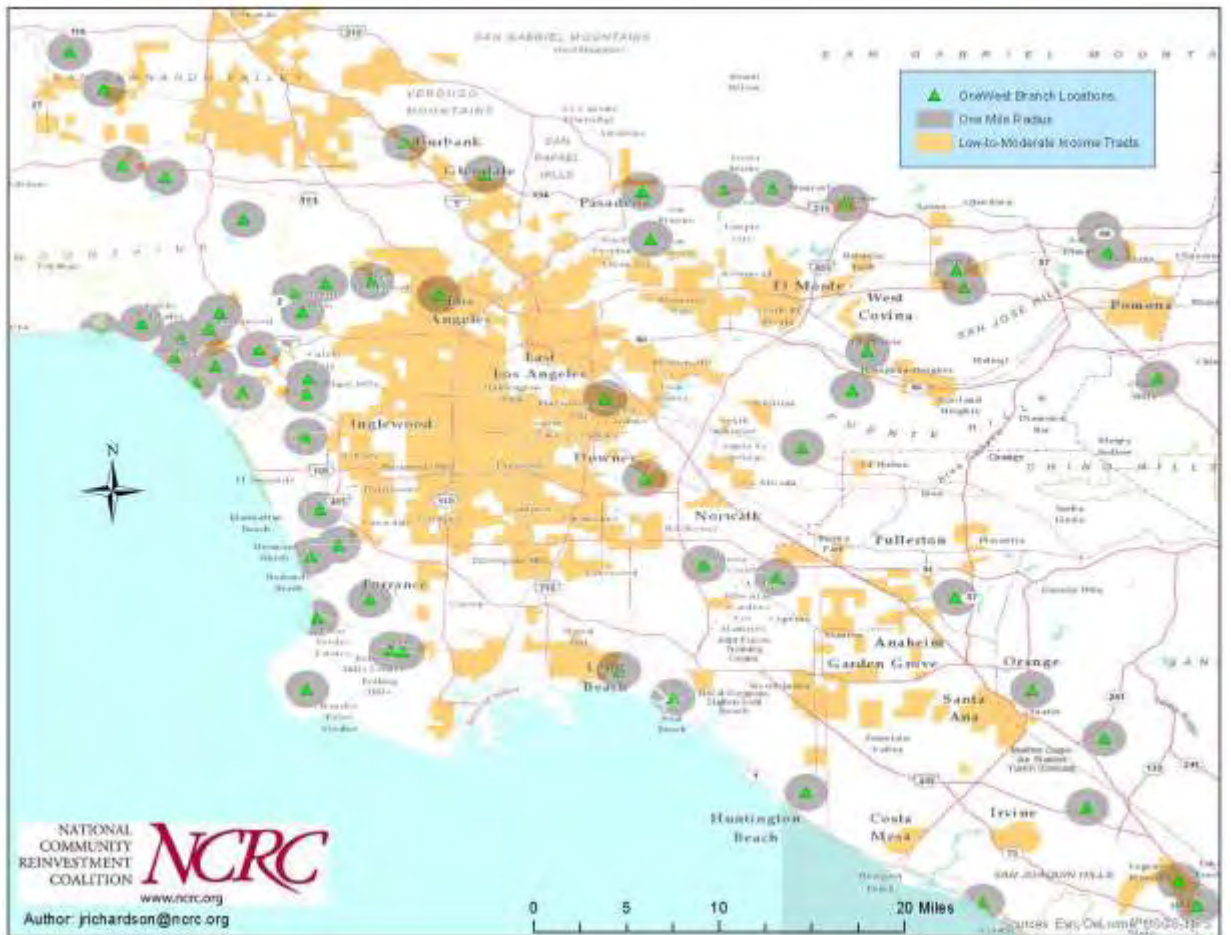
Low Branch Presence in LMI Neighborhoods. As noted in prior comment letters, OneWest has only 2 out of 73 branches in low-income neighborhoods, and only 15% of its branches in low and moderate-income neighborhoods, compared to an industry average of 30%. In contrast, fully 37.5% of census tracts in the Los Angeles MSA are low to moderate income.

The map on the following page depicts OneWest branch presence in the low and moderate-income communities it is charged with serving under the Community Reinvestment Act. OneWest branches are depicted by green triangles. It is obvious from this map that nearly the entirety of OneWest branches are in the middle and upper income census tracts depicted on the map in white, and avoid the orange shaded areas which represent low and moderate income neighborhoods.



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Figure 7: OneWest branch presence in low and moderate income communities



OWB will not commit to open new branches in LMI areas to balance out its branch network and to better serve low and moderate-income communities. CRC is also concerned by Bank comments that suggest it may turn to mobile phones and other technology as a preferred vehicle to serve LMI households. The question here is, who is doing the preferring? OWB may wish to serve its LMI customers via technology, but many LMI, of color, elderly and other customers rely and depend on retail branch presence and the ability to interact face to face with bank staff.



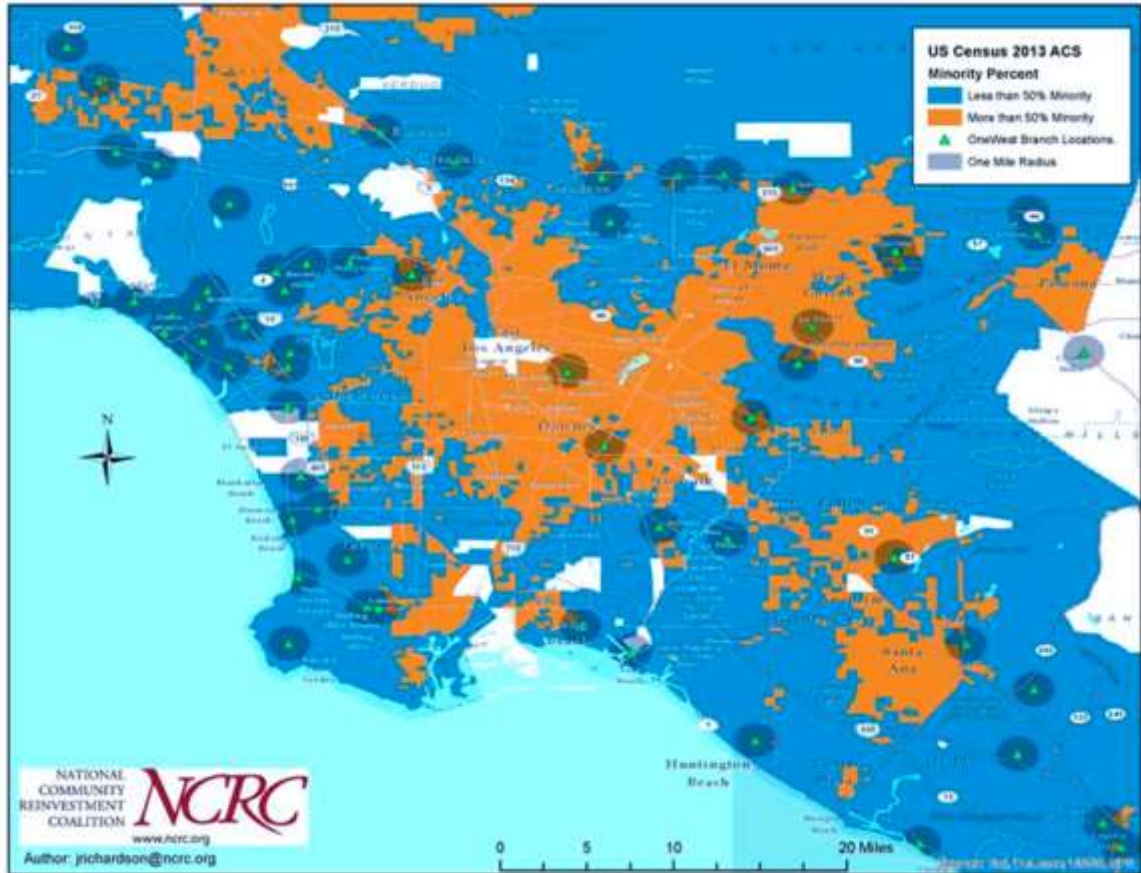
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Mobile Banking is No Substitute for Branch Access. A recent report by National CAPACD, National Urban League, and National Council of La Raza, based on surveys of over 5,000 consumers, found that, “Despite the growing prevalence of online or mobile banking services, most people admitted some level of discomfort with using the services. Only 11% of all respondents reported that they were comfortable conducting financial transactions online or using their mobile phone—7% of AAPIs, 13% of African Americans, and 16% of Hispanics.”¹⁸ We dispute the notion that mobile banking can be a substitute for an adequate branch presence in low and moderate-income neighborhoods, which OWB does not and will not have. This is only a way for the bank to cut costs, and communities of color once again are disproportionately facing the consequences of OneWest’s practices.

Low Branch Presence in Neighborhoods of Color. The map on the following page shows OneWest’s failure to be present in neighborhoods of color. OneWest branches are depicted in the third map by green triangles. With very few exceptions, OneWest branches in the Greater Los Angeles area avoid the swaths of neighborhoods that are comprised of 51% to 100% residents of color. Such neighborhoods are depicted on the map in differing shades of orange. OneWest is not adequately meeting the needs of neighborhoods of color in Los Angeles or in California.

¹⁸ BANKING IN COLOR: New Findings on Financial Access for Low- and Moderate-Income Communities. National CAPACD, National Urban League and National Council of La Raza. 2014, p. 17, at http://iamempowered.com/sites/default/files/bankingincolor_web.pdf

Figure 8: OneWest branch presence in neighborhoods of color in LA



OneWest consolidated branches in neighborhoods of color. Yet OneWest reports to regulators in response to an AI request that of the 12 branches that have been “consolidated” since OneWest took over, 5 of the 12 (or 41.6% of the total consolidations) were in majority minority tracts. For local communities, the impact of a branch consolidation is one less branch in the community, just as with a branch “closure.” At the Public Hearing in Los Angeles, Cynthia Amador and others spoke to the negative impacts of OneWest branch closings/consolidations on communities of color.



4) Allegations have been made of disparate REO property maintenance and marketing in neighborhoods of color as compared to white neighborhoods

At the Public Hearing in Los Angeles, a representative from the Housing Rights Center in Los Angeles gave testimony on behalf of Fair Housing of Marin that OneWest does not equally maintain and market REO properties in certain minority neighborhoods as compared to white neighborhoods in northern California.

In a follow letter filed with the OCC and the FRB, Fair Housing of Marin notes that its preliminary analysis of 7 OneWest REO properties showed that “while Onewest REO properties in White neighborhoods were generally well maintained and well marketed with neatly manicured lawns, securely locked doors and windows, and attractive professional, “for sale” signs posted out front, OneWest REO properties in communities of color were more likely to have trash strewn about the premises, overgrown grass, shrubbery, and weeds, and boarded or broken doors and windows among many other curb appeal and structural issues. OneWest’s REO in communities of color appear abandoned, blighted and unappealing to potential homeowners, even though they are located in stable neighborhoods with surrounding homes that are well-maintained... The complaints filed by FHOM/NFHA against Fannie Mae, Bank of America, and others – for similar failures to properly maintain/market REO homes in communities of color – underlines the seriousness of the fair housing issues.”¹⁹

The Applicant’s Response to the Federal Reserve’s AI request on this point does not contradict the testimony given. In fact, at least 18 complaints and 7 legal claims raising similar issues are separately noted in the Bank’s Response to the Federal Reserve’s Additional Information request.

¹⁹ Caroline Peattie, Letter of Fair Housing of Marin to FRB NY: CIT Group Inc. Proposed Acquisition of IMB Holdco LLC, Response to Request for Additional Information, June 5, 2015.



5) OneWest’s Financial Freedom servicing and foreclosure practices severely impact seniors and women, in particular, Non Borrower Spouses

5a. Financial Freedom (FF) has foreclosed on a large number of households in California.

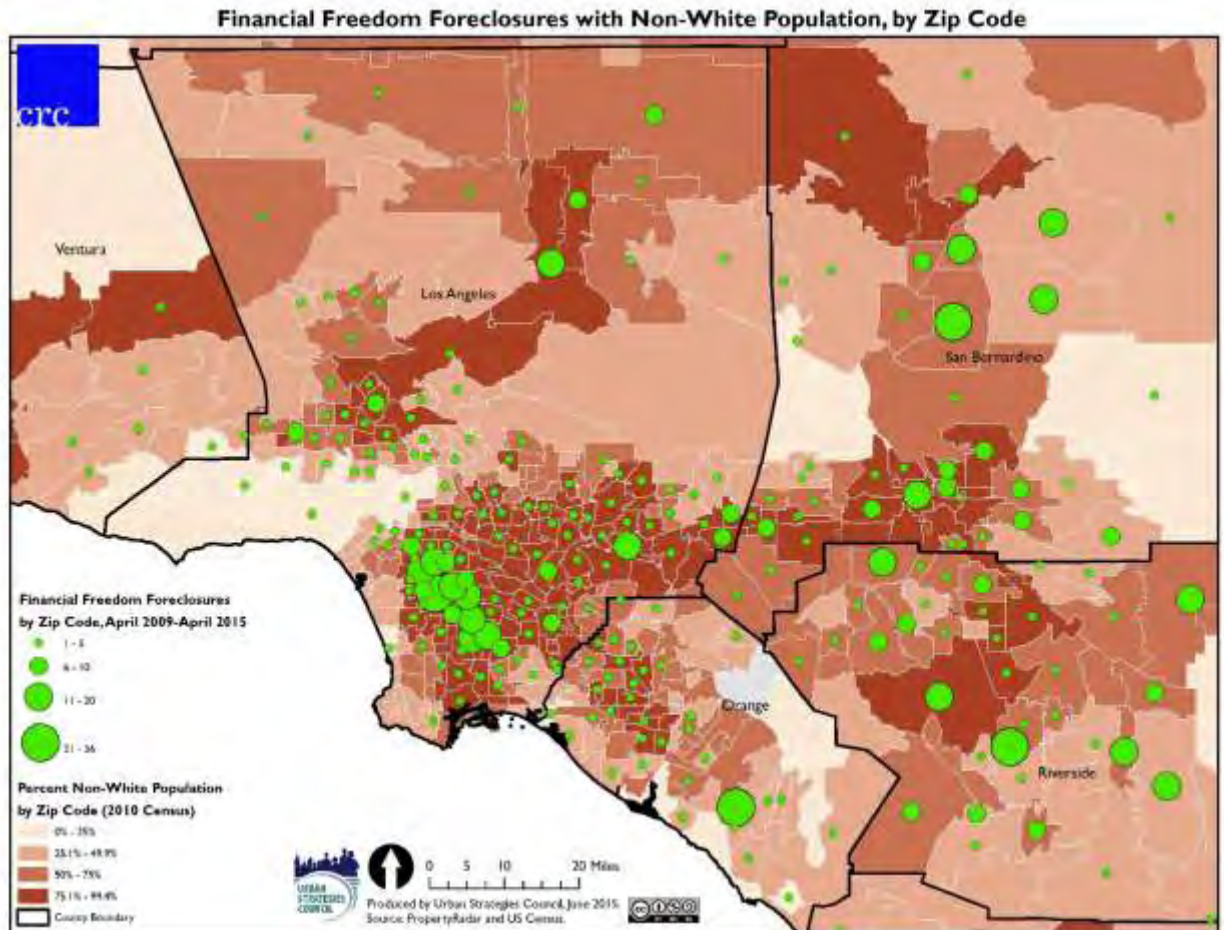
Figure 9: Top 10 California counties for Financial Freedom foreclosures, April 2009 to April 2015

County	Financial Freedom Foreclosures	Total
LOS ANGELES	498	20%
SAN BERNARDINO	287	12%
RIVERSIDE	267	11%
SACRAMENTO	200	8%
SAN DIEGO	187	8%
KERN	123	5%
ORANGE	102	4%
FRESNO	83	3%
SAN JOAQUIN	68	3%
Total	1815	74%

Figure 10: Top 10 California cities for Financial Freedom foreclosures, April 2009 to April 2015

City	Financial Freedom Foreclosures	Percent
LOS ANGELES	181	7%
SACRAMENTO	115	5%
BAKERSFIELD	73	3%
SAN DIEGO	72	3%
FRESNO	63	3%
COMPTON	43	2%
STOCKTON	42	2%
OAKLAND	40	2%
APPLE VALLEY	39	2%
Total	668	27%

Figure 11: Financial Freedom foreclosures in LA, April 2009 to April 2015



Financial Freedom, the reverse mortgage servicing arm of OneWest, is responsible for 2,459 foreclosures of seniors in California since OWB took over. These reverse mortgage foreclosures are, by definition, having a concentrated impact on seniors and their families. And they continue.

5b. There has been little transparency around Financial Freedom foreclosures, servicing, performance and oversight.

In light of growing concern about OWB’s Financial Freedom (FF) affiliate and its HECM reverse mortgage servicing, on November 19, 2014 CRC filed a Freedom Of Information Act (FOIA) request with HUD seeking documents relating to complaints that may have been filed against Financial Freedom, any HUD policies designed to address court decisions challenging the legality



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of its policies for dealing with non-borrower spouses and heirs, the number of existing homeowners for whom the non-borrower spouse issue may be relevant, and the number of HECM foreclosures of borrowers, non-borrower spouses and heirs processed by OWB and FF in California and the nation. CRC has sought expedited review of this request so as not to unduly delay the processing of the bank merger application. The FRB and the OCC should not make any decisions on this merger without this information being made part of the public record, subject to public scrutiny, and part of their deliberations.

5c. The Non Borrower Spouse issue is a fair lending problem that OneWest and Financial Freedom appear to have been perpetuating.

We are particularly concerned about how FF deals with non-borrower spouses (NBS) when the borrower spouse has died. We have spoken to a number of advocates, attorneys, and non-borrower spouses from across the country who have had problems with FF. We believe that FF is acting contrary to the Congressional statute authorizing HECMs which provides protections to homeowners, including spouses, and also that FF is acting contrary to the decision in the Bennett case invalidating HUD policies that may have seemingly required servicers to bring reverse mortgage loans due and payable upon the death of the borrower, even while a non-borrower spouse was living in the home.

This is all the more unjust as there is near consensus that for the typical couples facing this situation, they were routinely encouraged to take the younger spouse off of the reverse mortgage, were not told that doing so would endanger the surviving spouse's ability to remain in the home and were often lied to, and that the surviving spouse invariably is shocked to learn that upon the passing of their loved one that they are being pushed out of the home.

We say, "near consensus" as the CEO of OneWest Bank, Joseph Otting, is the only person we have heard articulate that surviving spouses knowingly bargained for the situation they find themselves in.

In fact, through a cursory review of public notices filed, we see that OneWest and Financial Freedom foreclosures are continuing with alarming speed. We have seen notices for at least sixty-six (66) foreclosure sales from across the U.S. since March 20, 2015. Despite statements by OneWest executives at the February 26, 2015 hearing about their sympathy for a foreclosure moratorium on Non Borrower Spouses, several of these recent notices appear to be regarding proposed foreclosures on non-borrower spouses (NBS), heirs and estates. We urge the regulators to ensure that all foreclosures on successors in interest have been in full compliance with existing federal law, CFPB and HUD rules, and state law. Further, we urge that Financial



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Freedom refrain from any further foreclosures on surviving spouses of HECM borrowers while HUD's policy on this score is being finalized.

CRC views the reverse mortgage Non Borrower Spouse (NBS) issue as a fair housing and fair lending concern in that nearly all of the surviving spouses who already lost their homes and those facing foreclosure at the hands of Financial Freedom are both seniors and women. Moreover, as noted in our recent mapping analysis, it appears that Financial Freedom foreclosures are disproportionately concentrated in communities of color. As noted in prior CRC comment letters, the legal context for NBS has been in a state of flux. Yet, OneWest and Financial Freedom have appeared intent on aggressively foreclosing on Non Borrower Spouses.

This is an issue of Congressional concern. Congresswoman Maxine Waters recently sent a letter to HUD Secretary Castro seeking clarification on the Non Borrower Spouse issue and urging a resolution that would allow widows and widowers to stay in their homes, as they had always understood they would be able to do.²⁰ Previously, Congressional Democrats had sent a letter to HUD urging greater protection for Non Borrower Spouses.²¹

The CFPB and the OCC should ensure that Financial Freedom has policies and procedures in place to work with successors in interest and provide them a meaningful opportunity to remain in their homes after the passing of a loved one. This is especially compelling in light of recent policy changes at CFPB, Fannie, Freddie and Treasury designed to provide greater protection to these vulnerable borrowers in the forward mortgage context.

A number of comments by Non Borrower Spouses and advocates have been submitted as part of the record in this merger, and several reverse mortgage borrowers and families testified at the Public Hearing as to Financial Freedom abuses.

Karen Hunziker testified at the February 26, 2015 hearing in Los Angeles about her experience with Financial Freedom after her husband passed away.

She asserted that, "My husband passed away in May 2014 and 10 days later OWB sent me a repayment letter and a PRE-FORECLOSURE letter saying they would initiate foreclosure in 30 days. One day, I called 5 times to verify I received the 90-day extension OWB promised in writing. I spoke to 5 different people all with a different story. In part, I was told:

- OWB didn't receive the documents faxed multiple times,
- The documents needed to be reviewed by their legal department,

²⁰ U.S. House Committee on Financial Services, "Waters Calls for Increased Transparency in HUD's Reverse Mortgage Conversion Program," Press Release, May 27, 2015.

²¹ Bonnie Sinnock, "House Democrats Call for Expanded Reverse Mortgage Protections," National Mortgage News, December 23, 2015.



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- I had to call back in 5 days,
- I used up all my extensions,
- I didn't get the documents in on time,
- The last person told me my property was scheduled for auction in 30 days.

At all times OWB refused to put any phone conversation in writing. My story illustrates the consistent pattern and practice of OneWest Bank to aggressively foreclose and evict non-borrowing spouses from their homes.”²²

CRC understands that at least one additional Non Borrower Spouse facing foreclosure by Financial Freedom is submitting comments and raising concerns about Financial Freedom's move to foreclose on widows whose main defaulting activity is seeing their husbands pass away. It is not clear that HUD is as intent on foreclosing on Non Borrower Spouses as Financial Freedom appears to be.

While Financial Freedom appears intent to foreclose on NBS, we understand that Wells Fargo, and perhaps J.B. Nutter, have taken the position that they will not process foreclosures on non-borrower surviving spouses until, at least, HUD clarifies some of the open questions relating to this emerging policy. OneWest should do no less —especially considering its claim at the public hearing that it actually supports a moratorium—and the regulators should require OneWest and Financial Freedom to refrain from foreclosing on non-borrower surviving spouses until this issue is resolved.

On May 1, HUD rescinded its Mortgagee Letter 2015-03 which recently framed HUD's guidance regarding the process servicers should follow for Non Borrower Spouses. HUD's policy has been subject to litigation and opposition from consumer groups for its failure to protect Non Borrower Spouses as the statute, broker sales pitches, and human decency would dictate. It is clear that HUD policy on this issue is unclear has been in flux.

On Friday, June 12, HUD surprisingly issued Mortgagee Letter 2015-15²³ which may significantly address this problem going forward. We are still reviewing the letter, but it appears to provide a meaningful path to home preservation for Non Borrower Spouses. But the letter also appears to give servicers the option to offer NBS the Mortgagee Option Election. Given Financial Freedom's prior arbitrary use of its discretion, discussed more fully

²² Karen Hunziker, “TESTIMONY OF KAREN HUNZIKER PUBLIC MEETING FEBRUARY 26, 2015, 8 AM to 4 PM, FEDERAL RESERVE BANK, LOS ANGELES BRANCH, February 26, 2015, available at: <https://calreinvest.wordpress.com/2015/03/05/consumer-testifies-financial-freedom-onewest-bank-reverse-mortgage-problems-federal-reserve-hud-cfpb-occ/>

²³ Mortgagee Letter 2015-15, U.S. Department of Housing and Urban Development, June 12, 2015.



below, regulators need to ensure that MOE options are not unfairly, arbitrarily or discriminatorily denied to certain Non Borrower Spouses.

We reiterate our call that OneWest commit to honor a moratorium on foreclosing on Non Borrower Spouses. We expect that other servicers will continue to take stronger pro-consumer approaches to this issue in the short term. OneWest should cease all such foreclosures.

5d. Financial Freedom makes it difficult for heirs to retain the family home.

A recent state legislative bill on reverse mortgages designed to increase consumer education and protection garnered the support of 21 individuals, 19 of whom are believed to be Financial Freedom borrowers, or relatives of Financial Freedom borrowers. A representative excerpt from these letters reads, "As the daughter and heir of a Reverse Mortgage Borrower I can state with a certainty if the protections provided by this AB 1700 had been in place at the time of reverse mortgage origination my father would have understood his responsibility to ensure a reverse mortgage was suitable for his circumstances, if a reverse mortgage would meet his financial goals, provide financial security through his retirement and meet his goals for his estate and property upon his passing. Importantly, the AB1700 worksheet provides guidance to understand the consequences and risks and gives Borrowers and their family the necessary time to obtain professional financial and legal advice necessary before agreeing to a complex financial contract. After my two-year struggle with the financial institution to retain the family home after my father's passing, I feel it is crucial to require all family members to be involved in this process."

On January 8, 2015, *Fox 4* in Florida reported on the case of Mary Damacher, who chained her sister Michelle Ayers to a pipe in the home that was first purchased by their grandparents, then passed down to her mother, until Financial Freedom foreclosed on them. The sisters attempted to purchase the home, but were reportedly rebuffed in their efforts by Financial Freedom. "I've been preapproved for a mortgage and had all the paperwork taken care of to repurchase the home, and basically Financial Freedom and One West Bank has refused me the right to purchase my home," Mary said.²⁴

Mr. Michael Allen from Phoenix had testimony read into the record at the Public Hearing on February 26, 2015. He was frustrated in his attempts to purchase his mother's home. As he testified, "OneWest Bank (OWB) did not provide a Single Point of Contact nor provide any

²⁴ Lisa Greenberg, "NFM sisters chained to home to protest reverse mortgage," *Fox4*, January 8, 2015, at <http://www.jrn.com/fox4now/news/NFM-sisters-chained-to-home-to-protest-reverse-mortgage-287977331.html>



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guidance or instruction to help me satisfy the loan. I initiated all calls to OWB and spoke to a different person with a different story and different reason to deny my requests. OWB claimed they didn't get my documents time after time. THEY DID. OWB sent me a short sale packet twice after I wrote saying I wanted to pay the lesser amount of the loan balance. The appraised value was about \$35,000 more than the loan balance. On 11/3 I received notification that OWB had recorded a Notice of Trustee sale on September 29, approximately 3 months after my mother's death and 2 months after receipt of the repayment letter. I called OWB – they refused to postpone auction. The auction was cancelled with HUD intervention. OWB added foreclosure related legal fees and drive by appraisal fees to the payoff. My story is illustrative of OneWest Bank's violation of my right to repay the loan, the acceleration of foreclosure, and the related legal and appraisal fees of \$2,508.50 and an unidentified servicing advance of \$1,839.00 we did not receive."²⁵

Elizabeth Lavulo testified similarly about her attempts to purchase her grandmother's Utah home. She testified that OneWest did not provide a Single Point of Contact, lost documents, wrongly claimed she not have legal authority to speak to them or act on behalf of her grandmother's estate, accelerated foreclosure 4 months after her Grandmother's death, refused to honor her letter of intent to repay the loan and refused to grant her the HUD authorized time to obtain a new loan. OneWest three times wrongly attempted to auction the property within a 6 week period. These auctions were only stopped with hours to spare through HUD intervention. OWB refused to accept her certified funds and demanded additional legal fees because OWB chose to list the property for auction a 4th time. OWB's statement to escrow noted that "If the additional fees for listing the property for auction are not paid immediately OWB will return the certified funds and auction the property. According to Ms. Lavulo, "In order to close the loan I was forced to pay \$2,015.60 in foreclosure related costs and legal fees for the decision of OWB to accelerate foreclosure and auction 4 times."²⁶

Julie Cheney testified at the Public Hearing about her efforts to retain her parents' home. Ms. Cheney testified that her parents "were sold a Financial Freedom reverse mortgage they didn't need, while my dad was in the last month of his life, with terminal cancer, on narcotic pain medication, and my mother had Alzheimer's disease and could not complete a sentence. A month after dad's death we found the Financial Freedom loan docs and learned my parents

²⁵ Michael Allen, "TESTIMONY OF MICHAEL ALLEN: PUBLIC MEETING FEBRUARY 26, 2015, 8 AM to 4 PM, FEDERAL RESERVE BANK, LOS ANGELES BRANCH," February 26, 2015, available at: <https://calreinvest.wordpress.com/2015/03/05/financial-freedom-one-west-bank-no-single-point-of-contact-arizona-federal-reserve-cfpb-complaints/>

²⁶ Elizabeth Lavulo, "Testimony of Elizabeth Lavulo, PUBLIC MEETING FEBRUARY 26, 2015, 8 AM to 4 PM FEDERAL RESERVE BANK, LOS ANGELES BRANCH, February 26, 2015, available at: <https://calreinvest.wordpress.com/2015/03/05/delays-by-financial-freedom-reverse-mortgage-complaints/>



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received a lump sum of \$80,000 that sat untouched in their bank account. The nightmare began when we tried to give the money back to OneWest Bank 3 times over the course of a year after dad's death. OWB refused each time." She went on to testify that OneWest wrongfully foreclosed on the property three times, recorded false documents with the county recorder, failed to provide a Single Point Of Contact, inflated an appraisal in order to prevent her from exercising the 95% option, and charged unauthorized legal, service and foreclosure related fees to the loan payoff.²⁷

Noreen O'More struggled to honor her father's wish to keep his home of 50 years in the family. She testified that her father was a WW2, Korea & Viet Nam Veteran with 38 years military service. He got a reverse mortgage in 2002. He passed away in August of 2011. "We contacted OWB immediately after his death to repay the loan. We were never provided a Single Point of Contact. We could never talk to the same person twice, our questions were not answered and paperwork was always lost or missing. We submitted all the documentation requested by OWB and secured financing 3 months after my father's death. We called, emailed and faxed every week or two for status. OWB kept delaying with one excuse after another for more than 18 months. OWB delayed the repayment process for over 2 years forcing us to pay an additional \$89,000 due to increased property value. We closed the loan one day before the auction set by OWB."²⁸

Lisa Rinard could not secure OneWest/Financial Freedom's cooperation despite evidence that fraud was being perpetrated on her mother in law. In 2005, a caretaker began submitting draw requests to OWB without the knowledge of Ms. Rinard's mother in law. "OWB approved the forged draw requests without any verification that an 80 year old woman was suddenly withdrawing large amounts of money. The caretaker gave sworn testimony during a court hearing admitting to forging Mrs. Rinard's signature and taking money without her permission. Mrs. Rinard's bank investigated and concluded fraud had occurred by the caretaker. We notified OWB three times of the forged withdrawals in the amount of \$198,504.85. When we requested a refund, OWB denied they had acknowledged fraud and refused to speak to us without a POA. OWB refused to speak to us without a conservatorship which cost us \$6,000. OWB continued to deny fraud and foreclosed. Because of OWB's refusal to refund any of the fraudulent funds, Mrs. Rinard was forced to live the last years of her life on Medi-Cal in a nursing home funded by

²⁷ Julie Cheney, "Testimony of Julie Cheney, PUBLIC MEETING FEBRUARY 26, 2015, 8 AM to 4 PM FEDERAL RESERVE BANK, LOS ANGELES BRANCH, February 26, 2015, available at: <https://calreinvest.wordpress.com/2015/03/05/inside-financial-freedom-one-west-bank-reverse-mortgage-nightmare-one-familiys-story-federal-reserve-office-of-the-comptroller-of-the-currency/>

²⁸ Noreen O'More, "TESTIMONY OF NOREEN O'MORE: PUBLIC MEETING FEBRUARY 26, 2015, 8 AM to 4 PM, FEDERAL RESERVE BANK, LOS ANGELES BRANCH, February 26, 2015, available at: <https://calreinvest.wordpress.com/2015/03/05/financial-freedom-onewest-bank-reverse-mortgage-delays-hurt-california-family-federal-reserve/>



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taxpayer dollars. OWB either submitted a claim to HUD for FHA insurance benefits or to the FDIC for the loss share agreement.²⁹

Nearly every consumer who testified at the public hearing cited a lack of a single contact at Financial Freedom, multiple mixed messages from Financial Freedom staff, and numerous bank-created obstacles in attempting to keep their homes.

We understand that FF may also have denied heirs the ability to pursue deeds in lieu, in addition to denying heirs the ability to purchase the property. The following is a timeline of one such heir, provided by one HECM counselor who indicated seeing approximately five similar cases where Financial Freedom would not allow a deceased borrower's heirs to purchase the home or even secure a deed in lieu:

Heir's experience in trying to work with Financial Freedom to purchase family home

- 11/4/2013 : __ passed away
- 11/20/2013 : __ appointed as Representative
- 12/26/2013 : First letter received from Financial Freedom dated 12/12/13
- 12/26/2013: _ family met with _ and faxed the Proposed HECM Repayment Schedule to Financial Freedom, and mailed hard copy. Estate proposed to obtain financing for the family living in the home, or put the home up for sale in January 2014.
- 2/2/2014: The estate listed the home with a realtor for sale. (See the MLS service records for the State of Utah)
- 2/28/2014: Financial Freedom's attorney filed the Notice of Default and Substitution of Trustee. No contact was made by Financial Freedom or the attorney to the estate for an updated status prior to the NOD being filed.
- 3/12/2014: Estate heirs met with _ to complete an application for refinance in the event a sale was not forthcoming.
- 3/25/2014: Heirs received a copy of the Notice of Default. _ sent a certified letter to the foreclosing attorney that the NOD filing was premature as the estate had been doing all that was required. We requested they cancel the NOD filing, and copies of this correspondence were provided to Financial Freedom and HUD.
- 4/22/2014: Heirs received a letter from Financial Freedom stating that they had received our letter of 3/25, but they did not have authorization to release information to our office. The representative for the estate, _ came into our office and signed an

²⁹ Lisa Rinard, TESTIMONY OF LISA RINARD: PUBLIC MEETING FEBRUARY 26, 2015, 8 AM to 4 PM, FEDERAL RESERVE BANK, LOS ANGELES BRANCH, February 26, 2015, available at <https://calreinvest.wordpress.com/2015/03/05/one-west-bank-reverse-mortgage-fraud-hurts-california-senior/>



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authorization which was provided to Financial Freedom via fax on 4/25/2014, along with executed listing agreement with __, dated 4/24/2014 and the recorded Deed to the property. These items were requested by Financial Freedom to be included with the authorization form. They were faxed to 866-574-0094, attention Corey.

- 6/12/2014: No offers were received on the home, so the heirs residing in the home collected all required information for a refinance and went into __ and completed an application. Since no offers on the home had been received, they wanted to be able to meet the original time frame allotted to pay off __ existing HECM loan. They were preapproved at that time.
- 6/18/2014: Heirs came home to a Notice of Trustee's Sale on the door of the home, reflecting a posted sale date of July 11, 2014.
- 6/23/2014: __ contacted Financial Freedom as to why the Notice of Trustee's Sale had been posted when they had been made aware of what the estate's intentions were, and their efforts since his death. We were advised that the submission on 03/25 was missing 2 additional items, therefore, they had not processed a request to postpone. When asked who in the estate was contacted about the needed items, we were advised that no one was because that is not the responsibility of Financial Freedom and is the responsibility of the Estate. We asked then what two items were needed and were told to provide the Letter of Intent from the Estate and the Listing Agreement. Both were faxed to the Maturity Department at Financial Freedom, 866-447-2022 that same day.
- 7/1/2014 : __ contacted Financial Freedom to determine that they had received all the required information to postpone the sale and allow the estate's heirs to complete their refinance, as all was approved and we would be closing, but not until after the 7/11 sale date. We were told the sale had NOT been postponed, and they required authorization to speak with us. Advised that they had it and refaxed it. Called back in and was told Financial Freedom had no intentions of postponing the sale. Called and talked with Fannie Mae, the investor.
- 7/10/2014: Phoned Financial Freedom to make sure the sale set for 7/11 had been postponed; was told it was not. Also phoned Fannie Mae and was told that the Heirs needed to file Bankruptcy on the estate of the deceased.
- 7/10/2014: One of the heirs on title to the home filed for bankruptcy protection after the attorney told them they could not file on an estate to stop the sale set for 7/11. The prior loan refinance approval became null and void with the bankruptcy filing. The estate opted to lower the sales price to move the home as quickly as possible.
- 7/15/2014: Received a letter via __ sent by FEDEX to her advising that Financial Freedom had "decided" to postpone the sale to 8/25/2014. No mention was made of the bankruptcy stay in effect.



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- 8/3/2014: Estate received and accepted an offer to purchase at a price that would pay off the Financial Freedom loan in full. The offer was submitted to Financial Freedom with advice that since the payoff would be in full, no short sale approval or review was necessary. The purchase contract reflected a closing date of 9/9/2014, so we asked at that time if this closing date would be acceptable. We were advised that since a bankruptcy stay was in effect, this should be acceptable.
- 8/22/2014: contacted Financial Freedom after receiving a payoff stating that there was a foreclosure sale set for 8/25. We were again advised that a bankruptcy stay was on the home and the sale for 8/25 would not be held.
- 8/25/2014: At the urging of the heirs in the home, we again called Financial Freedom to make certain that the foreclosure sale had been canceled, and again, were told that the property was under bankruptcy protection and the sale would not be held that day.
- 8/26/2014 I found out from Financial Freedom that the property had been sold to a 3rd party when I called to find out what date the sale had been postponed to.

5e. Financial Freedom’s numerous foreclosures come in the context of problematic servicing practices and performance regarding reverse mortgage loans.

OneWest’s Financial Freedom reverse mortgage servicer affiliate continues to be the subject of reports suggesting potential abuses and community harm.

Problematic Servicing: Testimony of Sandy Jolley. Sandy Jolley, a reverse mortgage and abuse consultant working with a large number of reverse mortgage borrowers and their families, has submitted a number of comment letters outlining various servicing abuses by Financial Freedom. In her most recent comment letter, she addresses “the most egregiously harmful practices, specifically: Consumer Comment Letters & Testimony, Consumer Complaints, Single Point of Contact, Legal Authority, Repayment of loans, and Consent Orders. All Statements in this comment letter are supported by physical evidence.”

In discussing wrongful foreclosures, acceleration of foreclosures, and padding foreclosure costs, Ms. Jolley testifies, “**One of the unvarying aggressive business practices of OWB is to (fast track) foreclosure and set auctions outside HUD guidance.** Consumers who are in compliance with regulations and attempting to exercise their rights report initiation of foreclosure as soon as 30 to 90 days after the death of the borrower. Some consumer’s receive a pre-foreclosure letter at the same time as the repayment letter. OneWest *always initiates foreclosure months prior to the expiration of time allowed by HUD regulations.*”

“The most common question I get from consumers is, “Why won’t Financial Freedom let me pay off the loan? They would get their money.”



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“The answer is simple-it is more profitable for **OneWest to foreclose and add on thousands and thousands of dollars in foreclosure related legal fees and other costs to inflate their FHA claim and/or the consumer payoff.**”³⁰

Problematic Servicing: Testimony of Bet Tzedek Legal Services. At the Public Hearing in Los Angeles on February 26, 2015, Rachel Mehlsak of Bet Tzedek Legal Services testified, “My colleagues and I have seen firsthand the distress caused by OneWest Bank in its rush to pursue foreclosure, particularly against elderly clients with reverse mortgages serviced by its Financial Freedom division. One elderly Bet Tzedek client was threatened with foreclosure by Financial Freedom for not making repairs to her home. But the client’s original lender, IndyMac, had refused to release the funds that were set aside for the repairs, effectively preventing the client from making the repairs and then punishing her for not doing it. Moreover, Financial Freedom had let the client’s affordable hazard insurance lapse, and then force-placed her with a OneWest-affiliated company at an exorbitantly higher rate.

“Another client I worked with had lived in her home for over 40 years. She is elderly, disabled, and supports her daughter and four minor grandchildren on just her monthly Social Security income. After her husband died, she had trouble maintaining her property tax payments, and OneWest, the parent company of her reverse mortgage lender, Financial Freedom, threatened to foreclose. Eventually, OneWest initiated foreclosure against the client’s home one month sooner than HUD guidelines required. OneWest did so even though HUD had just announced a 60-day extension of its foreclosure timeframes for surviving spouses like my client and even though I had asked Financial Freedom multiple times to postpone the foreclosure proceedings. I was able to help the client obtain a one-month extension of the foreclosure – an outcome she wouldn’t have received without representation – but ultimately OneWest went through with the foreclosure sale. **Three generations of my client’s family were kicked out of their home for less than \$1300 owed to Financial Freedom** (emphasis added).”³¹

Problematic Servicing: Ratings Agency Reports. In March of 2014, Moody’s reported that “Financial Freedom continued to underperform in certain performance metrics related to its call center and assignment pipeline. The reverse mortgage servicer’s abandonment rates and average speeds of answer were poor....Financial Freedom serviced 120,488 reverse mortgages for \$22.7 billion as of January 31.” In September 2014, Fitch’s Negative Outlook of FF “predominantly reflects uncertainties relating to the pending sale of the servicing platform and

³⁰ Sandy Jolley, “Continuing opposition to CIT Group application to acquire IMB and OneWest Bank and to merge One West Bank and C1TBank: CIT/One West Bank Response to Federal Reserve Bank “Request for Additional Information,” May 12, 2015.

³¹ Rachel Mehlsak, “Testimony regarding CIT Group/OneWest before JOINT PUBLIC MEETING Held by the Federal Reserve and the Office of the Comptroller of the Currency,” February 26, 2015, available at: <https://calreinvest.wordpress.com/2015/03/02/bet-tzedek-testimony-at-onewest-cit-group-merger-federal-reserve-hearing-office-of-the-comptroller-of-the-currency/>



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Fitch’s concerns that the servicing operation could deteriorate while the pending sale remains unresolved.”

In other words, when Financial Freedom borrowers, non-borrower spouses, and heirs call Financial Freedom, they will likely be subject to long wait times to speak with a human, and due to Financial Freedom’s lack of capacity, the number of people who eventually hang up without speaking to a live person is higher than their industry peers.

6) OneWest has been arbitrary in the use of its discretion in servicing reverse mortgages and negatively impacts seniors

CRC is concerned about OneWest’s use and abuse of discretion in the context of reverse mortgage servicing, and otherwise. In at least two recent instances, HUD gave servicers discretion, first in offering NBS an alternative to foreclosure under Mortgagee Letter 2015-3, and then the discretion to postpone NBS foreclosure sales for 60 days after its rescission of the mortgagee letter. CRC is aware of at least one homeowner that Financial Freedom appears to have chosen not to assist, while perhaps exercising its discretion to help others. This borrower happened to testify against OneWest at the public hearing. We further understand that Financial Freedom did not grant the recent 60 day extension to all homeowners.

This is consistent with the testimony of Rachel Mehlsak of Bet Tzedek, discussed more fully above, that Financial Freedom would not offer her client a 60 day extension of the foreclosure timeline that HUD had authorized servicers to give previously. We would hope OneWest, Financial Freedom and all servicers would refrain from ALL foreclosures on Non Borrower Spouses until a consumer friendly policy can be crafted. But on what legitimate basis can a servicer of HECM loans agree to postpone foreclosures for some consumers, but refuse to do so for other, similarly situated consumers? **The regulators should investigate whether OneWest improperly retaliated against one or more of its homeowners, and whether OneWest is exercising servicing discretion in an arbitrary fashion and in a manner that may violate fair housing and/or fair lending laws.**

The new Mortgagee Letter appears to allow mortgagees to provide Non Borrower Spouses a path to remain in their homes for the rest of their lives, and provides mortgagees 120 days to take action. Financial Freedom and OneWest should be required to commit that for ALL (not only those it chooses to help, or those who did not testify against the bank merger, etc.) qualified Non Borrower Spouses, OWB and FF will work to keep NBS in their homes via the Mortgagee Option Election, and that in no event will they move to foreclose on ANY Non Borrower Spouse within the next 120 days. In essence, they must commit to a moratorium on



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foreclosures of NBS for at least 120 days, and commit to offer the MOE to all qualified borrowers so that every qualified NBS can remain in their homes through the rest of their days, as they and their deceased spouses intended and expected.

Enabling other abuse of seniors. In addition to the above cited cases, particularly that of Ms. Rinard, whose mother-in-law, Millie Minard was foreclosed despite her family presenting documented evidence of fraud to Financial Freedom, CRC also noted in a prior comment letter another example of OneWest failings having a severe impact on a senior. Specifically, Paul Greenwood, Deputy District Attorney and Head of Elder Abuse Prosecutions for the San Diego District Attorney's office, shared and lamented a "preventable crime" involving an 84-year-old OneWest Bank customer who was fleeced of \$300,000 in a mere 5 days as OneWest allowed him to repeatedly wire transfer thousands of dollars at a time from his account to a foreign bank. In the words of Deputy D.A. Greenwood, "Why would a branch of a bank allow an 84 year old gentleman [who has been a customer for over 20 years] to wire transfer to foreign banks an amount of \$50,000, then \$42,500, then \$40,000, then \$65,000, and finally \$98,000 on separate days and in separate transactions? And that same customer has NEVER before wire transferred like that in his entire banking experience." As Deputy D.A. Greenwood noted, "California implemented a law in 2007 establishing that every bank teller in the state was a mandatory reporter of suspected financial elder abuse. But is it effective; is it enough?"

Conclusion

In summary, we believe that public testimony, public and private data, and other evidence support the need for federal regulators to conduct an investigation into potential fair housing and fair lending violations by OneWest Bank and its affiliates.

In the meantime, we renew our opposition to this proposed merger, as currently structured, and urge the Federal Reserve and the OCC to reject these merger applications as the banks in question have clearly not met community credit needs, and this merger will provide no public benefit.

This merger application is characterized by too much opposition, too many fair lending and fair housing concerns, too much harm, too many foreclosures, too much secrecy, too much public subsidy, too much systemic risk, and too little reinvestment. The regulators cannot approve of this merger without conducting a fair housing and fair lending investigation, and without imposing substantial conditions in order to ensure that more homeowners do not unnecessarily



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lose their homes, that certain consumers are not disproportionately impacted, and that communities and the public will benefit.

If the Federal Reserve and the OCC will not exercise their authority to reject a merger as problematic as this one, will they ever?

Thank you for your consideration of these views. Please feel free to contact us at (415) 864-3980 if you wish to discuss this matter further.

Very Truly Yours,

Kevin Stein
Associate Director

Paulina Gonzalez
Executive Director

cc: Jan Owen, Commissioner, California Department of Business Oversight
Ivan J. Hurwitz, Vice President, FRB NY, comments.applications@ny.frb.org
David Finnegan, Office of the Comptroller of the Currency, WE.Licensing@occ.treas.gov

APPENDIX I:
OWB/IMB/FF CALIFORNIA
FORECLOSURE DATA: APRIL
2009-APRIL 2015

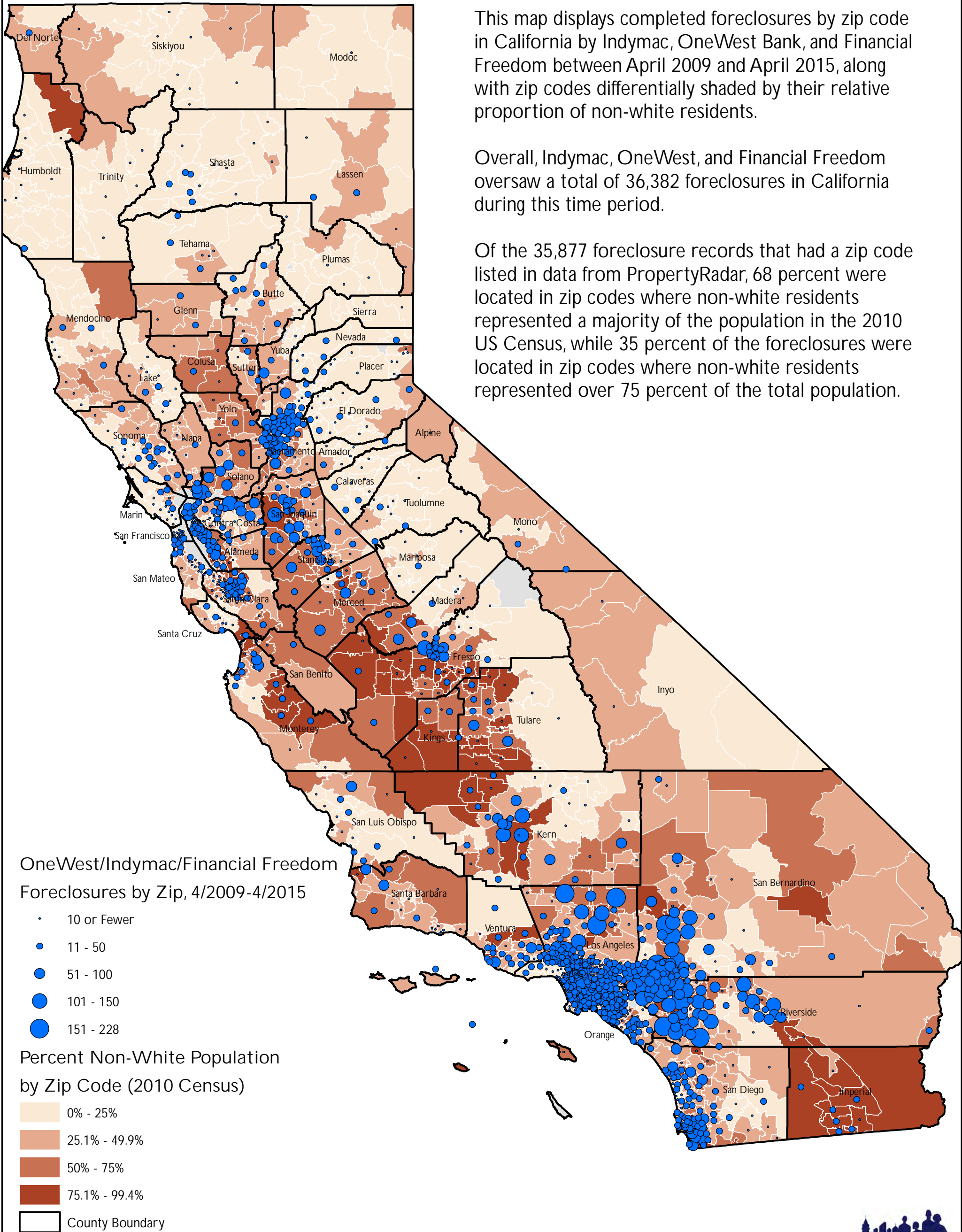
Indymac, OneWest, & Financial Freedom Foreclosures with Non-White Population, by Zip Code



This map displays completed foreclosures by zip code in California by Indymac, OneWest Bank, and Financial Freedom between April 2009 and April 2015, along with zip codes differentially shaded by their relative proportion of non-white residents.

Overall, Indymac, OneWest, and Financial Freedom oversaw a total of 36,382 foreclosures in California during this time period.

Of the 35,877 foreclosure records that had a zip code listed in data from PropertyRadar, 68 percent were located in zip codes where non-white residents represented a majority of the population in the 2010 US Census, while 35 percent of the foreclosures were located in zip codes where non-white residents represented over 75 percent of the total population.



OneWest/Indymac/Financial Freedom Foreclosures by Zip, 4/2009-4/2015

- 10 or Fewer
- 11 - 50
- 51 - 100
- 101 - 150
- 151 - 228

Percent Non-White Population by Zip Code (2010 Census)

- 0% - 25%
- 25.1% - 49.9%
- 50% - 75%
- 75.1% - 99.4%
- County Boundary

0 25 50 100 Miles



Chart 1: Total Number of California foreclosures by OneWest Bank + Financial Freedom from April 2009 to April 2015

OneWest	Indymac	OneWest and Indymac	Financial Freedom	All
16,113	17,810	33,923	2,459	36,382

Chart 2: Top 10 Counties for OneWest Foreclosures in California (excluding Financial Freedom foreclosures) from April 2009- April 2015

County	Indymac	OneWest	Total	Percent of total CA OneWest foreclosures (excluding Financial Freedom)
LOS ANGELES	4,216	3,703	7,919	23%
RIVERSIDE	2,191	2,106	4,297	13%
SAN BERNARDINO	1,795	1,890	3,685	11%
SAN DIEGO	1,185	1,138	2,323	7%
ORANGE	1,004	843	1,847	5%
SACRAMENTO	1,138	436	1,574	5%
KERN	475	572	1,047	3%
ALAMEDA	437	504	941	3%
CONTRA COSTA	725	207	932	3%
Total	13,166	11,399	24,565	72%

Source: Analysis of PropertyRadar data by Urban Strategies Council.



**Chart 3: Top 10 Cities
for OneWest
Foreclosures (excluding
Financial Freedom) in
California from April
2009-April 2015**

City	Indymac	OneWest	Total	Percent of total
LOS ANGELES	797	755	1,552	5%
SACRAMENTO	614	247	861	3%
SAN DIEGO	379	386	765	2%
BAKERSFIELD	332	377	709	2%
RIVERSIDE	316	306	622	2%
FRESNO	278	305	583	2%
SAN JOSE	300	228	528	2%
FONTANA	241	225	466	1%
PALMDALE	276	187	463	1%
Total	3533	3016	6,549	19%

*Source: Analysis of
PropertyRadar data by
Urban Strategies
Council.*



Chart 4: Top Ten Counties for Financial Freedom Foreclosures in California from April 2009 to April 2015

County	Financial Freedom Foreclosures	Percent of total Financial Freedom Foreclosures
LOS ANGELES	498	20%
SAN BERNARDINO	287	12%
RIVERSIDE	267	11%
SACRAMENTO	200	8%
SAN DIEGO	187	8%
KERN	123	5%
ORANGE	102	4%
FRESNO	83	3%
SAN JOAQUIN	68	3%
Total	1815	74%

Source: Analysis of PropertyRadar data by Urban Strategies Council.



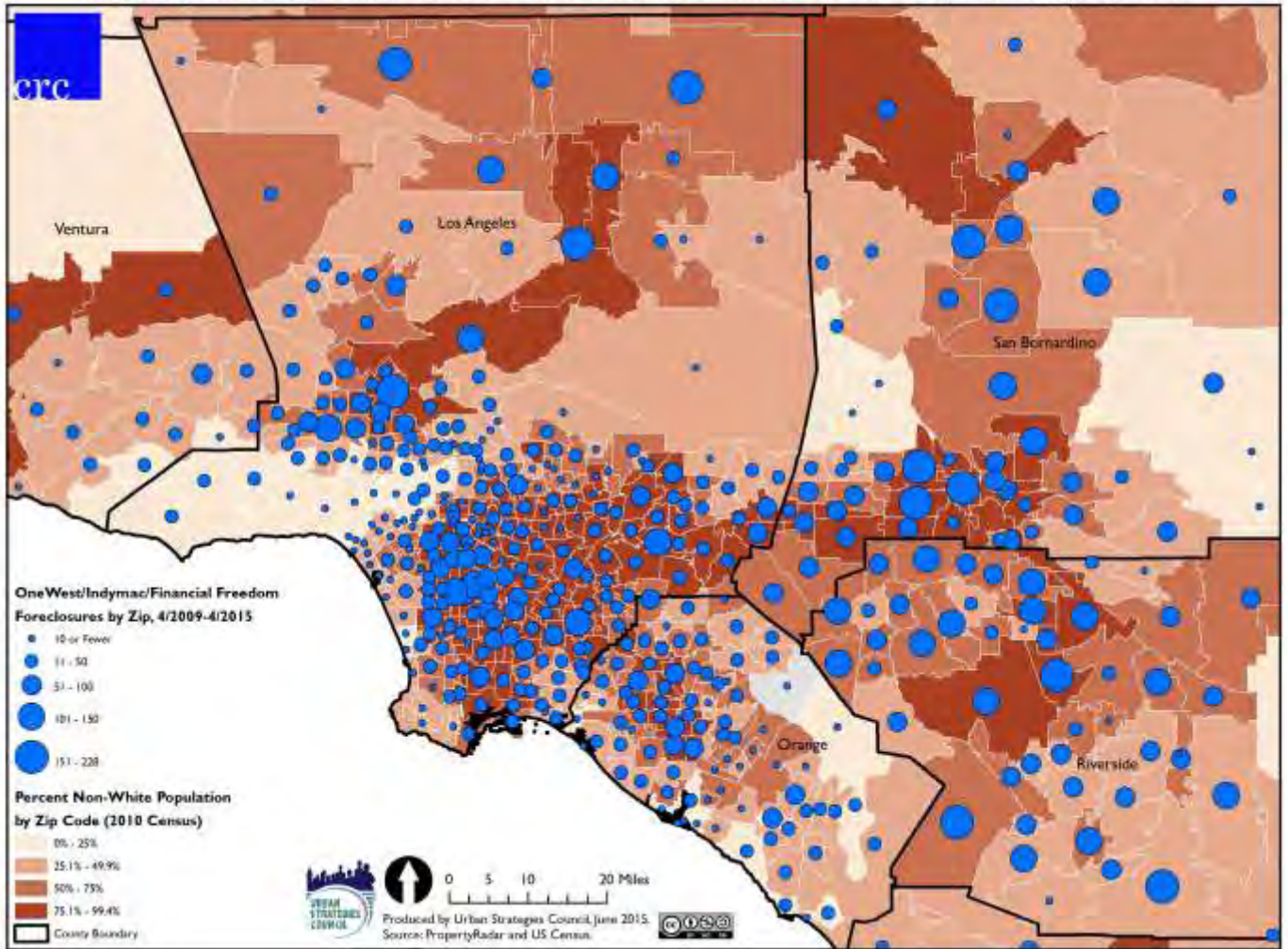
**Chart 5: Top Ten Cities for
Financial Freedom
Foreclosures in California from
April 2009 to April 2015**

City	Financial Freedom Foreclosures	Percent of total Financial Freedom Foreclosures
LOS ANGELES	181	7%
SACRAMENTO	115	5%
BAKERSFIELD	73	3%
SAN DIEGO	72	3%
FRESNO	63	3%
COMPTON	43	2%
STOCKTON	42	2%
OAKLAND	40	2%
APPLE VALLEY	39	2%
Total	668	27%

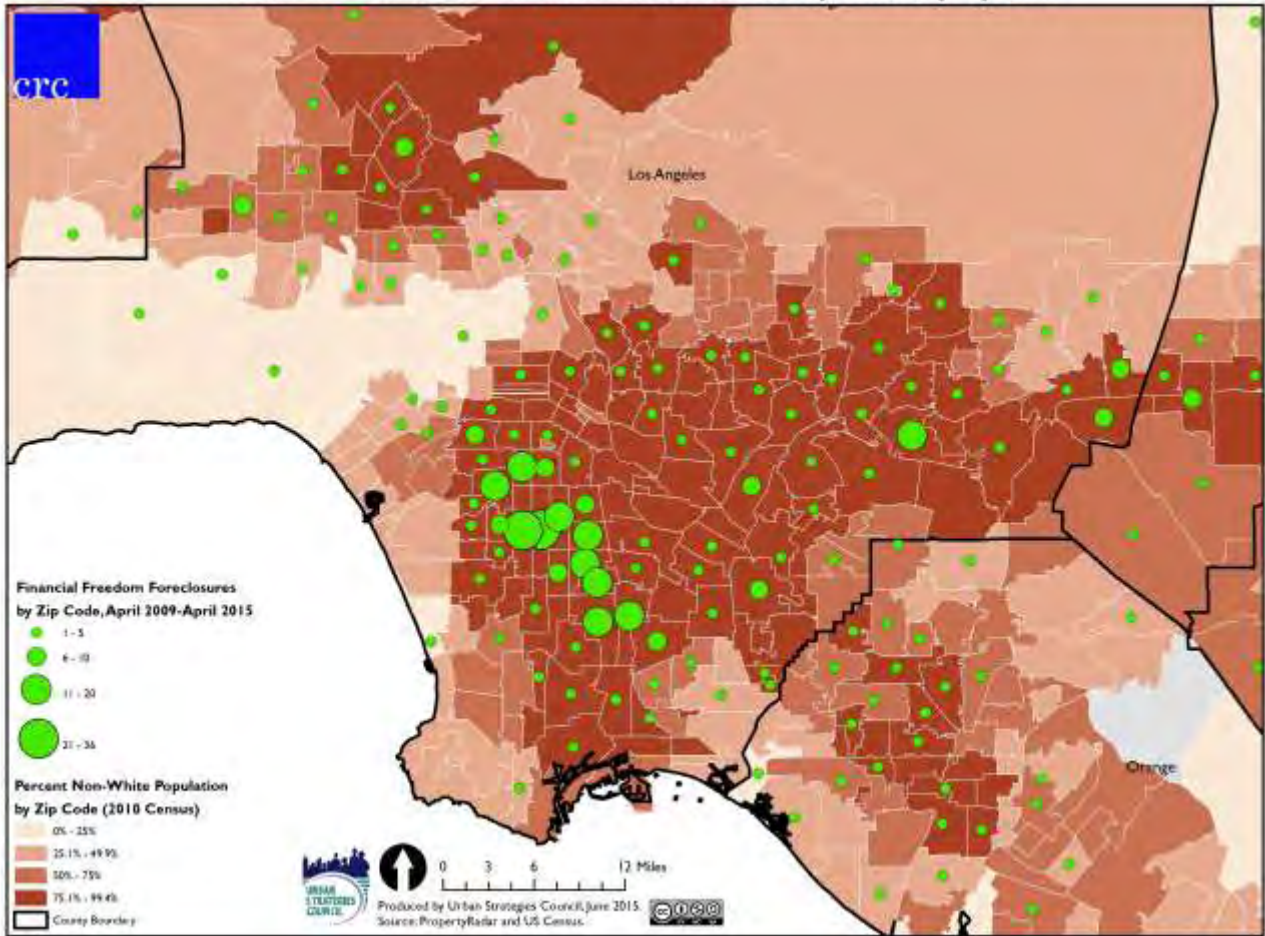
*Source: Analysis of
PropertyRadar data by Urban
Strategies Council.*



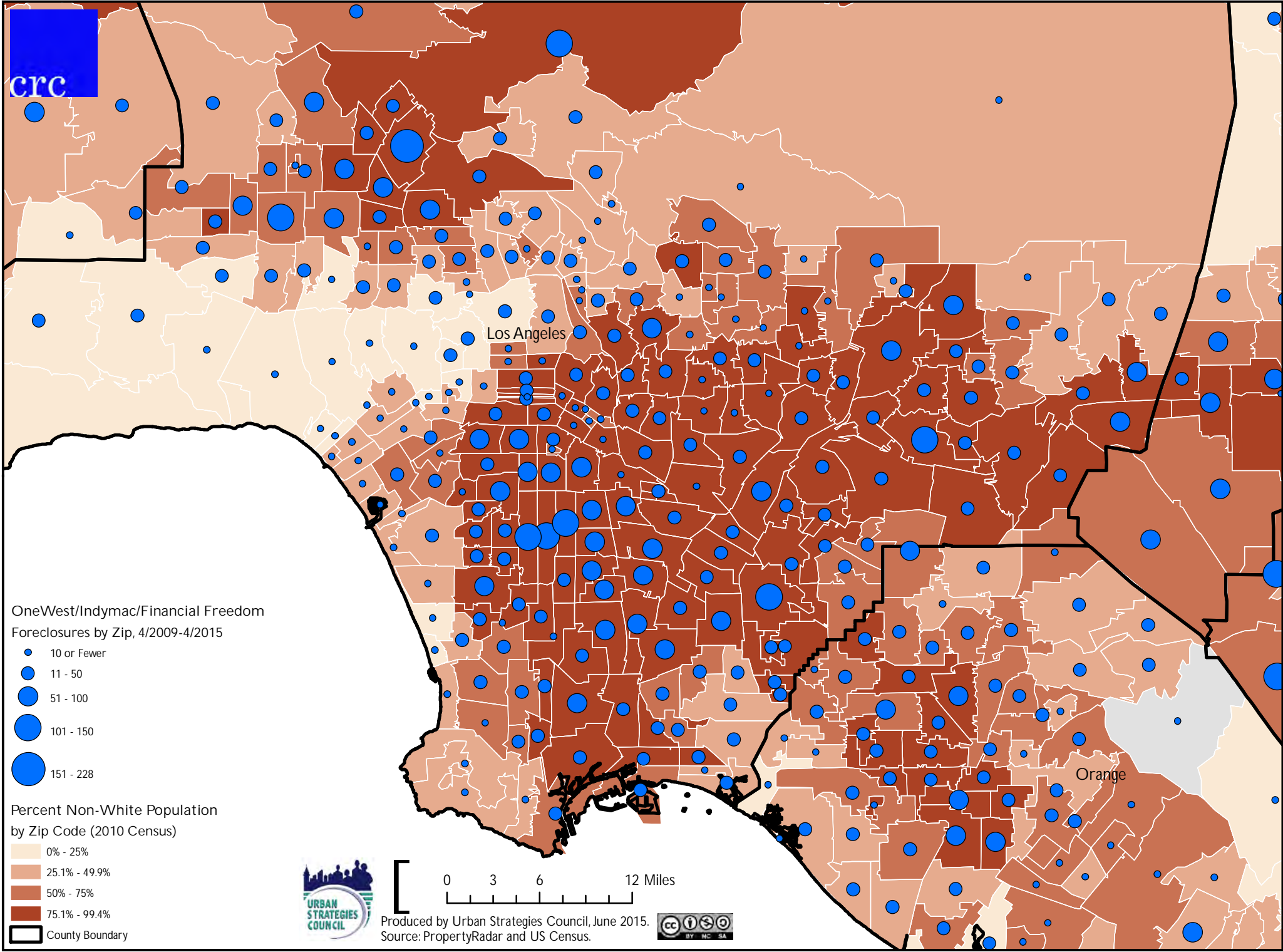
Indymac, OneWest, & Financial Freedom Foreclosures with Non-White Population, by Zip Code



Financial Freedom Foreclosures with Non-White Population, by Zip Code



Indymac, OneWest, & Financial Freedom Foreclosures with Non-White Population, by Zip Code

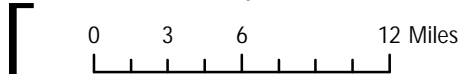


OneWest/Indymac/Financial Freedom
Foreclosures by Zip, 4/2009-4/2015

- 10 or Fewer
- 11 - 50
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- 151 - 228

Percent Non-White Population
by Zip Code (2010 Census)

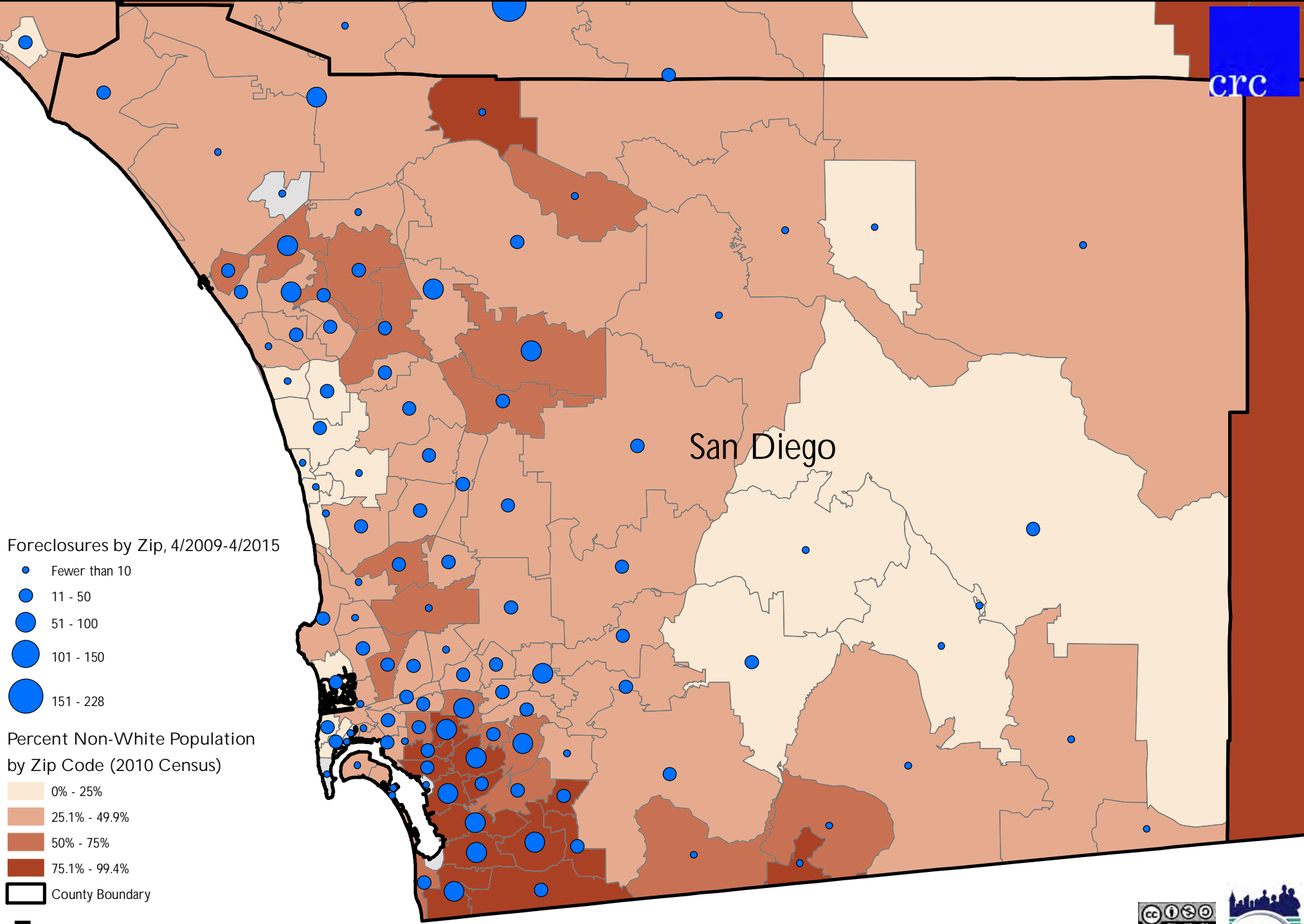
- 0% - 25%
- 25.1% - 49.9%
- 50% - 75%
- 75.1% - 99.4%
- County Boundary



Produced by Urban Strategies Council, June 2015.
Source: PropertyRadar and US Census.



Indymac, OneWest, & Financial Freedom Foreclosures with Non-White Population, by Zip Code



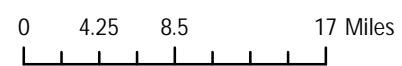
Foreclosures by Zip, 4/2009-4/2015

- Fewer than 10
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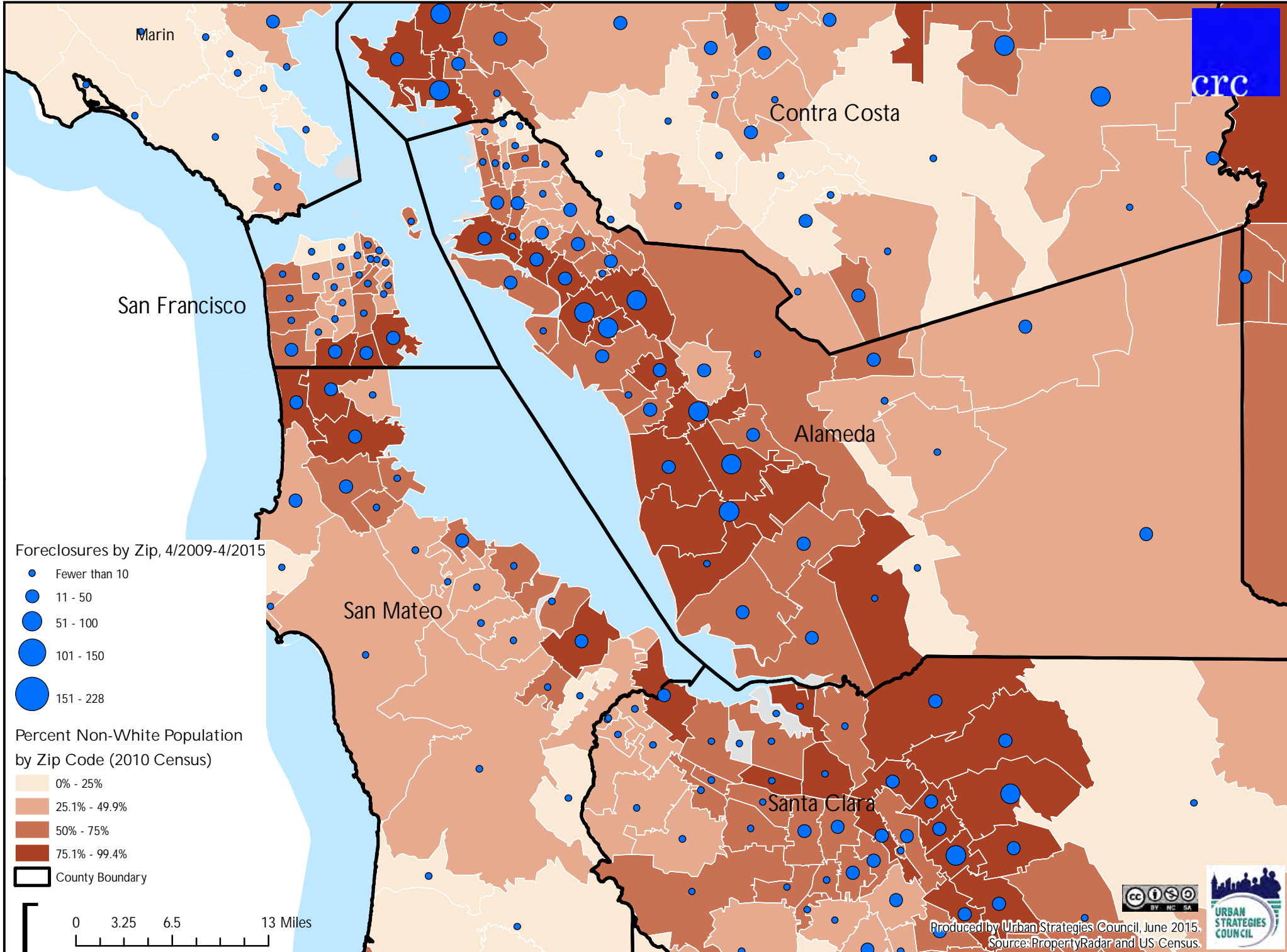
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- 50% - 75%
- 75.1% - 99.4%

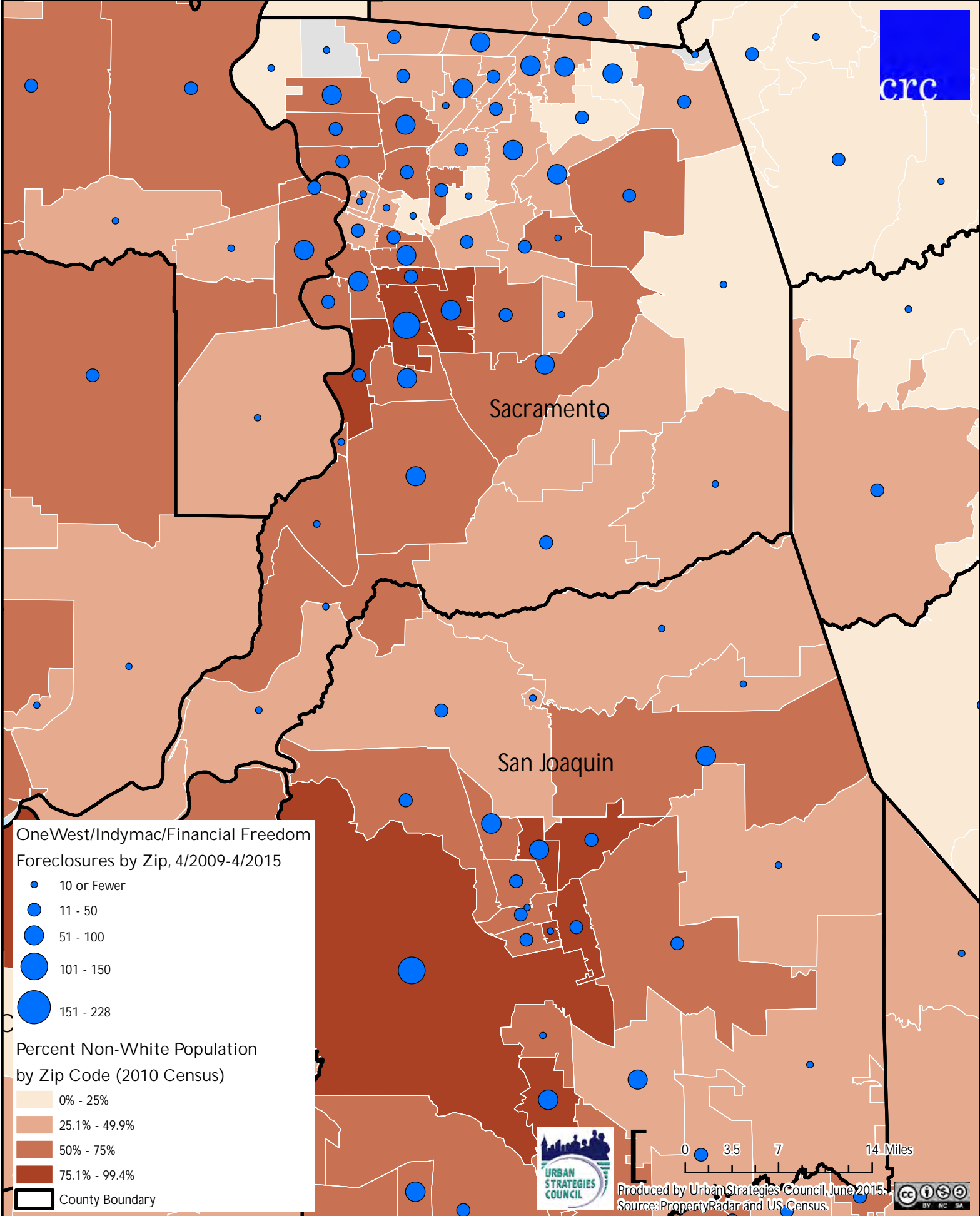
County Boundary



Indymac, OneWest, & Financial Freedom Foreclosures with Non-White Population, by Zip Code



Indymac, OneWest, & Financial Freedom Foreclosures with Non-White Population, by Zip Code



OneWest/Indymac/Financial Freedom Foreclosures by Zip, 4/2009-4/2015

- 10 or Fewer
- 11 - 50
- 51 - 100
- 101 - 150
- 151 - 228

Percent Non-White Population by Zip Code (2010 Census)

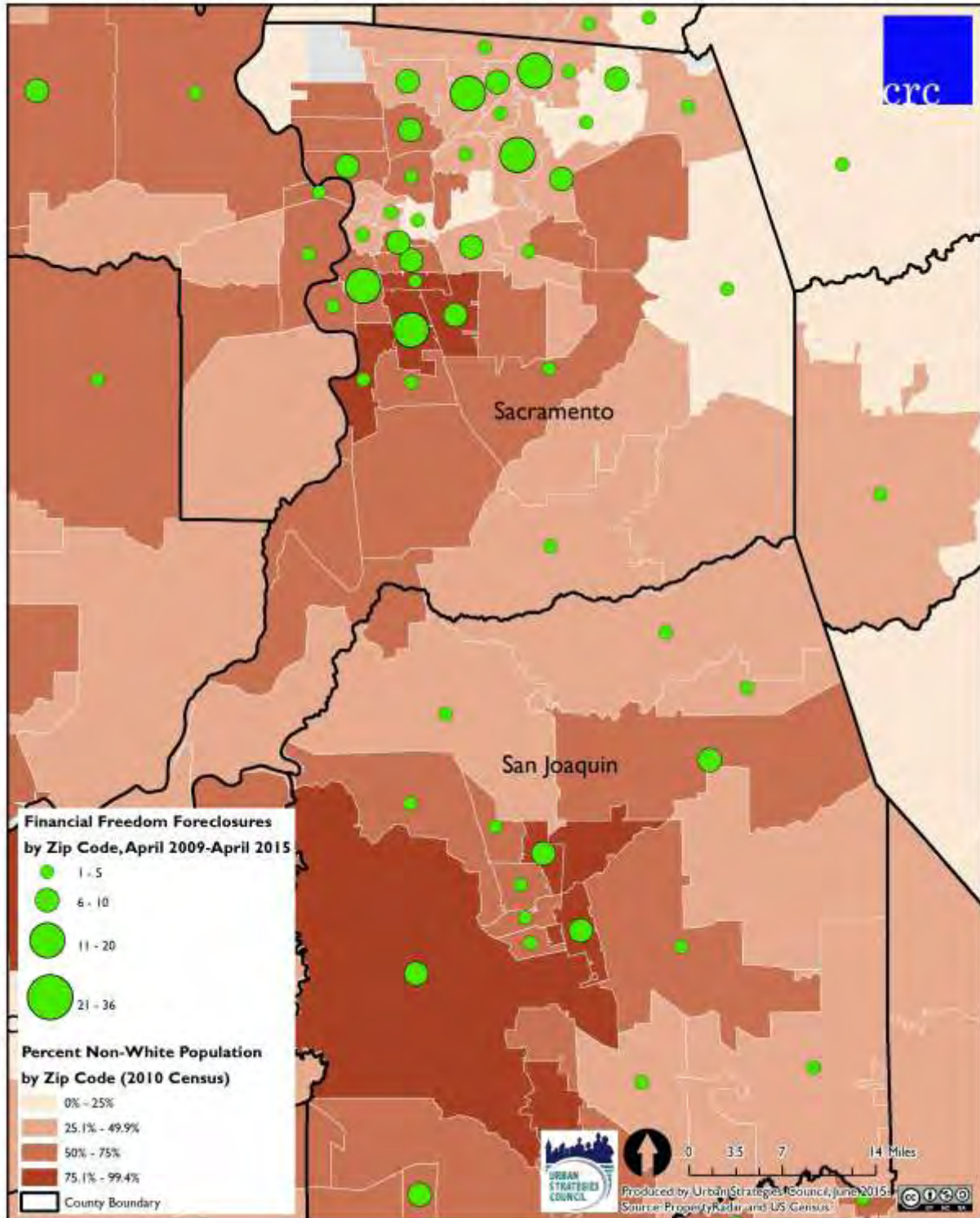
- 0% - 25%
- 25.1% - 49.9%
- 50% - 75%
- 75.1% - 99.4%

County Boundary

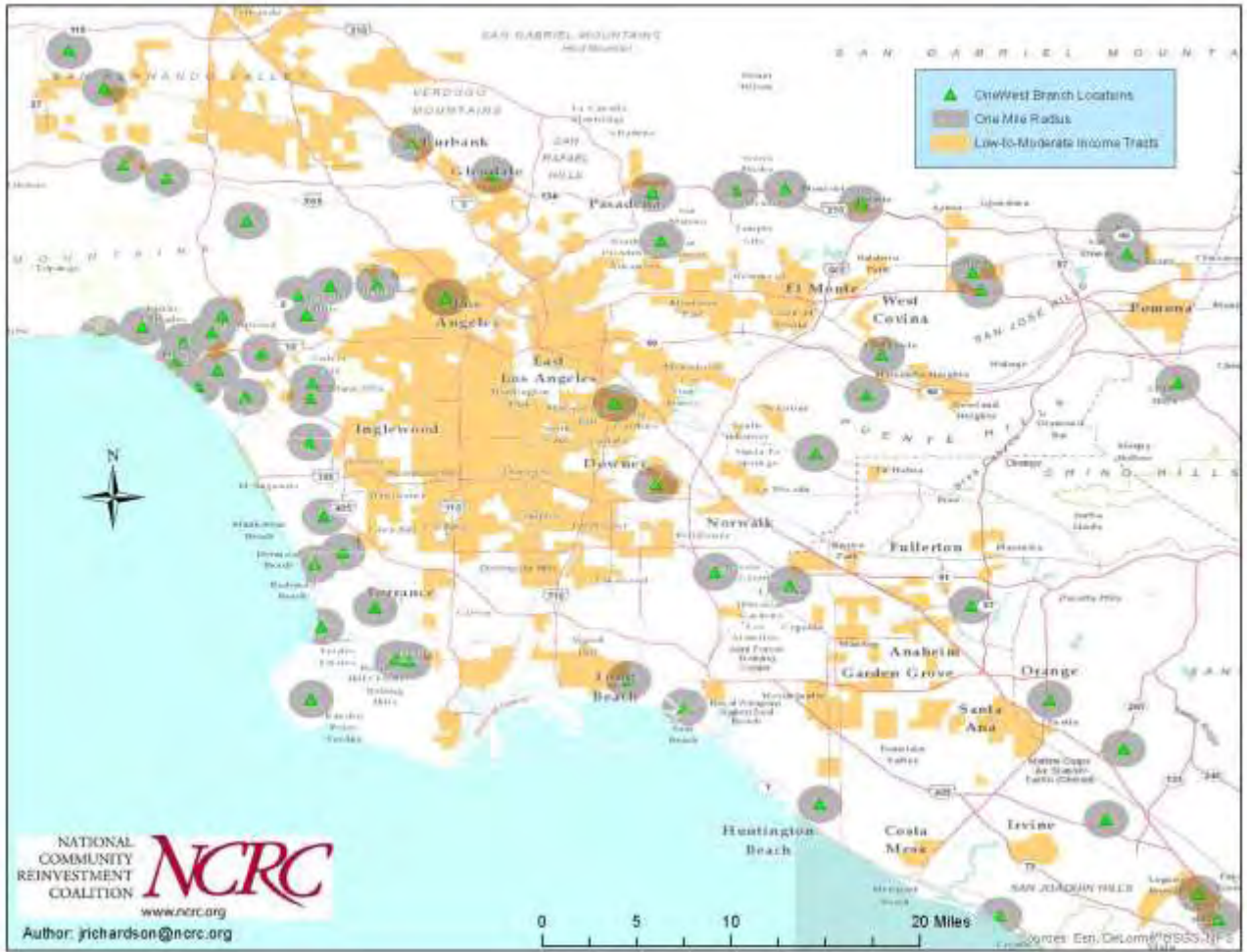


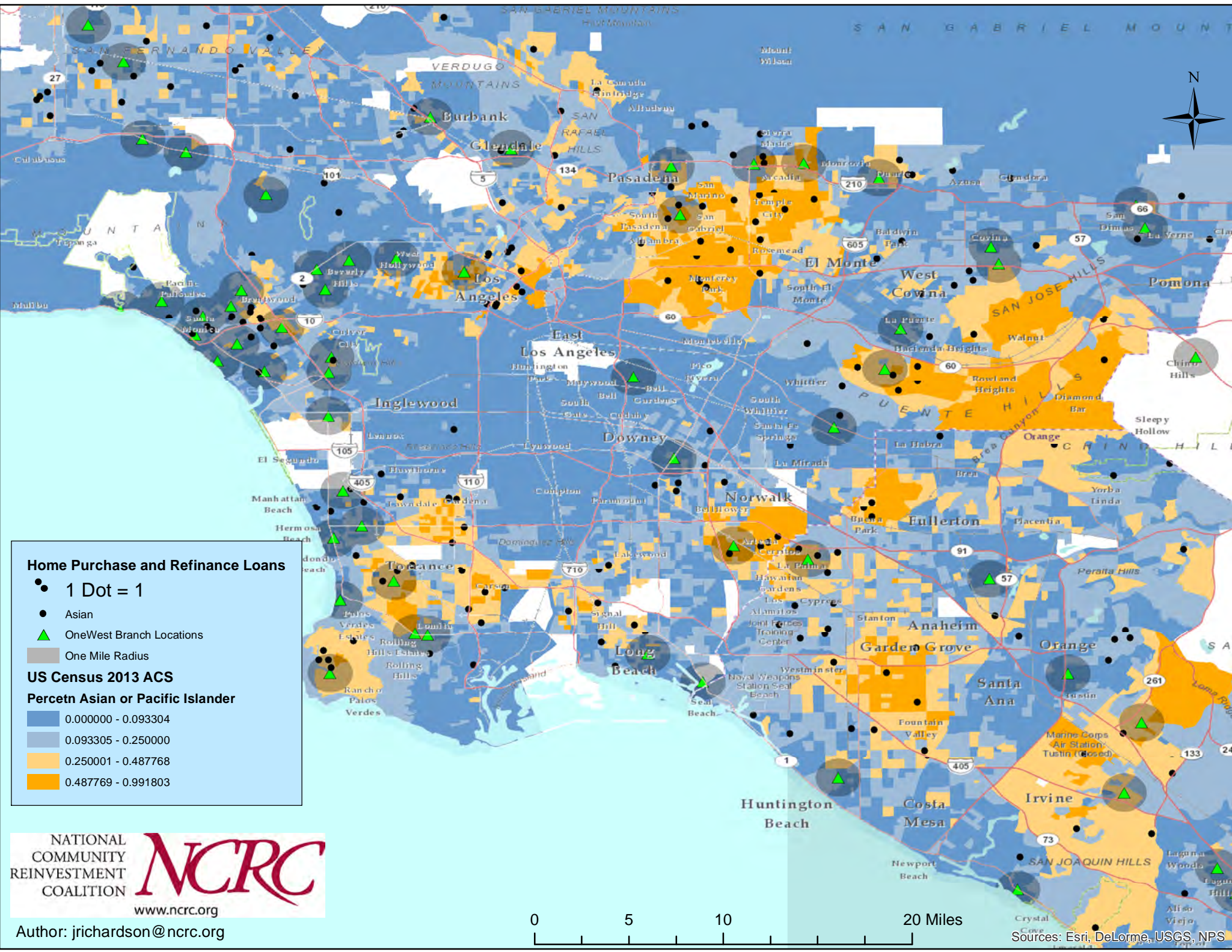
0 3.5 7 14 Miles

Financial Freedom Foreclosures with Non-White Population, by Zip Code



**APPENDIX II:
OWB CALIFORNIA BRANCH
MAPS BY RACE AND INCOME
OF CENSUS TRACTS
PREPARED BY NCRC**





Home Purchase and Refinance Loans

- 1 Dot = 1
- Asian
- ▲ OneWest Branch Locations
- One Mile Radius

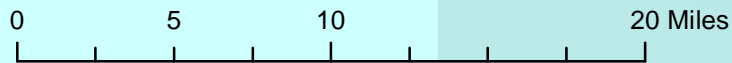
US Census 2013 ACS

Percetn Asian or Pacific Islander

- 0.000000 - 0.093304
- 0.093305 - 0.250000
- 0.250001 - 0.487768
- 0.487769 - 0.991803



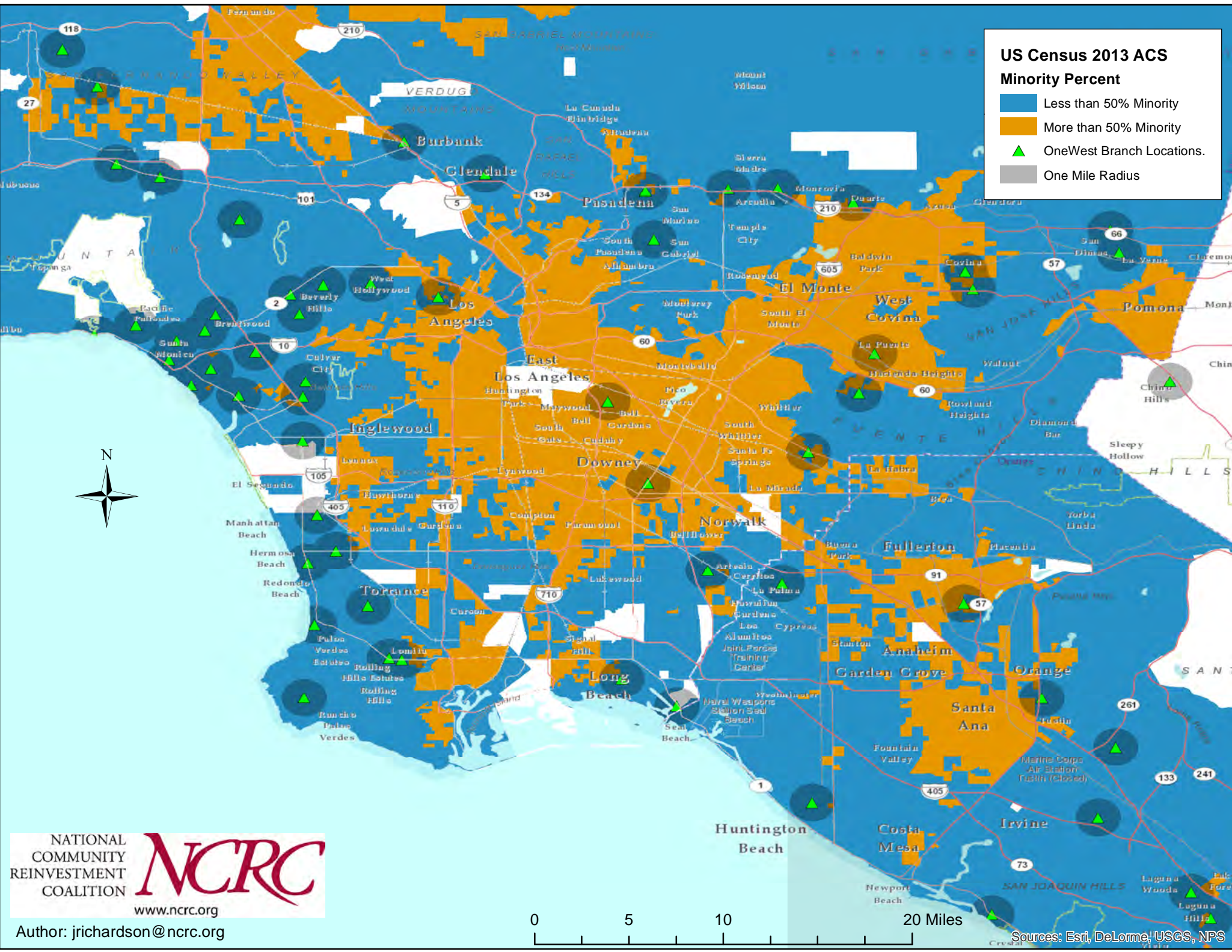
Author: jrichardson@ncrc.org



Sources: Esri, DeLorme, USGS, NPS

**US Census 2013 ACS
Minority Percent**

- Less than 50% Minority
- More than 50% Minority
- OneWest Branch Locations.
- One Mile Radius



NATIONAL
COMMUNITY
REINVESTMENT
COALITION

NCRRC

www.ncrc.org

Author: jrichardson@ncrc.org

0 5 10 20 Miles

Sources: Esri, DeLorme, USGS, NPS

Housing Discrimination Complaint

Case Number:

1. Complainants:

California Reinvestment Coalition (CRC)
474 Valencia St, Ste 230
San Francisco, CA 94103

2. Complainant Representatives:

Kevin Stein
California Reinvestment Coalition
474 Valencia St, Ste 230
San Francisco, CA 94103

3. Other Aggrieved Parties:

4. The following is alleged to have occurred or is about to occur:

- Discriminatory refusal to sell
- Discriminatory financing (includes real estate transactions)
- Discriminatory terms, conditions, privileges, or services and facilities
- Redlining

5. The alleged violation occurred because of:

- National Origin
- Color
- Race

6. **Address and location of the property in question (or if no property is involved, the city and state where the discrimination occurred):**

CA

7. **Respondents:**

CIT Bank, National Association, dba OneWest Bank
888 East Walnut Street
Pasadena, CA 91101

CIT Group, Inc
1 CIT Drive
Livingston, NJ 07039

8. **The following is a brief and concise statement of the facts regarding the alleged violation:**

Complainant California Reinvestment Coalition is a nonprofit corporation. Complainant alleges that Respondent CIT Group, by and through its CIT Bank, N.A. subsidiary, the successor to OneWest Bank, and its subsidiaries and affiliates (hereinafter and collectively, "Respondent") violated and continues to violate the Fair Housing Act by providing residential real estate related transactions in a manner that discriminates because of race, color and national origin.

Specifically, Complainant alleges that since at least 2011, Respondent discriminated in the marketing and origination of housing-related products, as evidenced by the low number of mortgages it made to African-American, Asian-American, and Latino borrowers in comparison to the demographics of the counties in Respondent's CRA assessment area and to the average industry market share. Complainants also allege Respondent discriminated on the basis of race, national origin and/or color, in locating and maintaining most of its bank branches in areas that serve majority-white communities and do not serve areas of high minority concentration. Complainant alleges that Respondent's practices amount to redlining and deny equal access to housing-related services, including mortgages, to borrowers because of their race, color and national origin in violation of the Fair Housing Act.

Specifically, complainant alleges that in the 6 counties that comprise Respondent's CRA assessment area:

- In African American majority neighborhoods: 0 Respondent branches; .7% of industry branches
- In Asian American majority neighborhoods; 1.4% of Respondents branches; 6.6% industry branches
- In Latino majority neighborhoods: 14.9% Respondent's branches; 19.6% of industry branches

In addition, Complainant alleges that market share and other analyses of Home Mortgage Disclosure Act (HMDA) data and data provided to federal banking regulators show that, since at least 2011, Respondent made few loans to Asian American, African American, and Latino borrowers and communities in absolute terms, in relation to the demographics of the counties in Respondent's CRA assessment area, and/or in relation to the industry as a whole. For example, for home loans originated in Respondent's six county CRA assessment area, Respondent had the following market shares in 2014:

- Respondent market share for all home loans - .03%
- Respondent market share for loans originated in majority minority census tracts - .02%
- Respondent market share for loans originated to Asian American borrowers - .02%
- Respondent market share for loans originated to Latino borrows .01%
- Respondent market share for loans originated to African American borrows - 0% (no loans originated to African American borrowers)

•

9. **The most recent date on which the alleged discrimination occurred:**

, and is continuing.

10. **Types of Federal Funding Identified:**

11. **The acts alleged in this complaint, if proven, may constitute a violation of the following sections:**

804a or f, 805, and 804b or f of Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.

Please sign and date this form:

I declare under penalty of perjury that I have read this complaint (including any attachments) and that it is true and correct.



On Behalf of CRC

2/14/17

Date

NOTE : HUD WILL FURNISH A COPY OF THIS COMPLAINT TO THE PERSON OR ORGANIZATION AGAINST WHOM IT IS FILED.

Supplemental Narrative in Support of Fair Housing Complaint

Pursuant to 42 U.S.C. §§ 3604 and 3605, The California Reinvestment Coalition (hereinafter “Complainant CRC”) and Fair Housing Advocates of Northern California – formerly Fair Housing of Marin (hereinafter “Complainant FHANC”) allege that CIT Group, by and through its CIT Bank, N.A. subsidiary, as successor to OneWest Bank, and its subsidiaries and affiliates (hereinafter and collectively, “Respondent”) discriminated on the basis of race, national origin and/or color in violation of the federal Fair Housing Act (42 U.S.C. §3604(a), §3604(b), §3604(c), §3604(d) and 3605(a)). Respondent has violated and continues to violate the Fair Housing Act (“FHA”) by locating and operating branches and services in a manner which did not and does not give equal access to all consumers and loan seekers based on race, national origin and/or color. Respondent further violated and continues to violate the FHA by failing to market and originate residential real estate products to Asian American, African-American and Latino borrowers and communities for multiple years. In addition, Respondent is maintaining and marketing (or failing to market) Real Estate Owned (“REO”) properties in a state of disrepair in predominantly African-American, Latino, and other non-White communities (hereinafter “communities of color”) while maintaining and marketing such properties in predominantly White communities in a materially better condition.

Through the acts and omissions described herein, and those to be discovered during the course of HUD’s investigation, Complainants allege that Respondent has a systemic and particularized practice of engaging in differential treatment in locating branches and services, failing to market and originate residential real estate products, and maintaining and/or marketing its REO properties on the basis of race, national origin and/or color. This practice has been ongoing and continues to persist through the present.

FACTUAL BACKGROUND

A. The Parties

Complainant California Reinvestment Coalition (CRC) is a statewide nonprofit coalition of 300 member organizations, incorporated under the laws of California, with its principal place of business in San Francisco. CRC organizational members include numerous fair housing organizations, housing and consumer credit counseling agencies, legal service and legal aid offices, Community Development Financial Institutions, community development corporations, small business technical assistance providers, and other organizations involved in addressing the housing, mortgage, small business and other credit needs of California’s residents and communities of color. Complainant CRC’s mission is to build an inclusive and fair economy that meets the needs of communities of color and low-income communities by ensuring that banks and other corporations invest and conduct business in our communities in a just and equitable manner. Complainant CRC furthers its mission through regulatory and legislative advocacy, dialogue and negotiations with banks and other corporations, research, and outreach and education of and with its member organizations. Respondent’s discriminatory conduct has required Complainant CRC to frustrate its mission and to divert its resources.

Through its advocacy, trainings, technical assistance, research, media work, outreach and education of its members, Complainant CRC works to ensure that corporations are meeting the needs of, and responsible participants in the economies of, communities of color and low income communities. The unlawful conduct of Respondent has injured Complainant CRC by:

- 1) interfering with these efforts to promote responsible corporate behavior in the state;
- 2) frustrating Complainant CRC's mission and purposes of building an inclusive and fair economy that meets the needs of communities of color and low income communities by ensuring that banks and other corporations invest and conduct business in our communities in a just and equitable manner; and 3) diverting Complainant CRC's resources away from advocating for better laws, regulations and corporate practices in furtherance of equal access to housing and other resources, and diverting Complainant CRC's resources away from advocating against other harmful practices, policies and actors that discriminate against people and neighborhoods of color in California. Respondent has injured Complainant CRC by requiring Complainant CRC to commit scarce resources, including substantial staff time and the expenditure of limited funds, to research and analyze Respondent's discriminatory practices, educate the public about such practices, and advocate for regulatory and other responses to halt and remedy the discriminatory conduct, amongst other activities.

Complainant Fair Housing Advocates of Northern California (FHANC) is a non-profit fair housing organization and member of both CRC and the National Fair Housing Alliance (NFHA), incorporated under the laws of the State of California and with its principal place of business in San Rafael, California. FHANC works to promote equal opportunity in the renting, purchasing, financing, and advertising of housing; educate people regarding federal and state fair housing laws; promote integrated communities and neighborhood diversity; and eliminate discriminatory housing practices. FHANC engages in a number of activities to further its mission of promoting equal housing opportunities, including but not limited to: fair housing and fair lending counseling, foreclosure prevention and pre-purchase counseling and education, educational programs in schools and the community regarding fair housing and diversity, fair housing training programs for housing providers, and advocacy for affordable housing. Respondent's discriminatory conduct has required FHANC to frustrate its mission and to divert its scarce resources.

Respondent has injured Complainant FHANC by requiring Complainant FHANC to commit scarce resources, including staff time, to conduct numerous investigations of the maintenance and marketing of Respondent's REO properties in Solano and Contra Costa Counties. As a result of this expenditure of time and resources, FHANC was forced to divert resources and time away from other intended projects and programs, and to delay, suspend, or even cancel such programming. In addition, FHANC engaged in significant community outreach and public efforts in order to address and attempt to counteract the effects of Defendants' conduct. FHANC has also expended its own funds to engage in community development, homeownership promotion, and neighborhood stabilization efforts. FHANC's financial investments have been

and are continuing to be undermined by the existence of Respondent's deteriorating and poorly maintained REO properties in those communities.

Respondent CIT Bank, N.A. is a national bank chartered and regulated by the Office of the Comptroller of the Currency, and headquartered in Pasadena, California. CIT Bank, N.A. operates approximately 71 retail branches throughout southern California, and engages in mortgage lending, small business lending and the provision of other bank products and services. CIT Bank, N.A. also controls Financial Freedom, an affiliate or subsidiary, which was in the business of originating, and continues to be in the business of servicing reverse mortgage loans, primarily those insured by HUD through the HECM program.

Respondent CIT Group, Inc. is a diversified financial services holding company which is regulated by the Federal Reserve Bank of New York and which is a necessary party to this complaint as it controls and owns CIT Bank, NA. CIT Group is a Systemically Important Financial Institution with over \$50 billion in assets.

B. Complainant's Investigation And Analysis Demonstrates Disparities Based Upon Race, National Origin and/or Color in Where Respondent Locates and Maintains Retail Branch Offices And Offers Financial Products in Communities of Color Compared to Predominantly White Communities

Complainant CRC alleges that Respondent is in the business of operating retail bank branch offices in California and is charged with meeting the credit needs of the communities in which these branch offices are located. Complainant CRC alleges that the Respondent discriminated on the basis of race, national origin and/or color in locating and maintaining bank branches in areas that serve majority-white communities, do not serve areas of high minority concentration, and provide unequal access to residential real estate loans to Asian Americans, African Americans, and Latinos, and unequal access to other bank products for people and neighborhoods of color where 50% or more of residents are people of color. Respondent's branch presence in majority minority communities is below that of its peers which resulted and results in making residential real estate, small business, and other loan products less available to persons based on race, national origin and/or color, and which results in making banking services less available to protected groups and neighborhoods. Additionally, of the 12 branches that have been "consolidated" by Respondent, 5 of the 12 (or 41.6% of the total consolidations) were in majority minority tracts. Respondent has sited branches in a way that avoids neighborhoods of color and minority census tracts, and the resulting pattern of branch locations and consolidations supports a claim of redlining.

Respondent has a strikingly low penetration of branches into neighborhoods that are predominantly Asian American, predominantly African American, and predominantly Latino, in absolute terms and compared to its peers. In Respondent's six county CRA assessment areas:

- In African American majority neighborhoods: 0 Respondent branches; .7% of industry branches

- In Asian American majority neighborhoods; 1.4% of Respondents branches; 6.6% industry branches
- In Latino majority neighborhoods: 14.9% Respondent's branches; 19.6% of industry branches¹

C. Complainant's Investigation and Analysis Demonstrates a Pattern of Disparities Based upon Race, National Origin and/or Color in How Respondent Markets, Offers, and Originates Mortgage Loans and Other Products in Communities of Color Compared to Predominantly White Communities and to Loan Applicants of Color Compared to White Loan Applicants.

Complainant CRC alleges that Respondent is in the business of marketing, originating, and arranging loans for borrowers to purchase, refinance, or maintain a dwelling secured by residential real estate. Complainant CRC alleges that the Respondent discriminated on the basis of race, national origin and/or color by failing to market its residential real estate loan products to Asian Americans, African Americans, Latinos and/or majority minority communities in the Los Angeles MSA and other Southern California counties in the Bank's CRA assessment area. Complainant CRC alleges that Respondent's lack of market penetration in Asian American, African-American, Latino, and majority minority communities in these markets made and makes residential real estate products less available to persons based on race, national origin, and/or color.

Market share and other analysis of Home Mortgage Disclosure Act (HMDA) data, and data provided to federal banking regulators by the Respondent itself, show that since at least 2011, Respondent made few loans to protected groups and communities in absolute terms, in relation to the demographics of the counties in Respondent's CRA assessment area, and in relation to the industry as a whole. Respondent's home lending shows a significant disparity when compared to other lenders. In addition, Respondent's small business lending activity is concentrated in white neighborhoods, at the expense of residents, small businesses, and neighborhoods of color.

In 2015, in the Los Angeles Combined Statistical Area (CSA),² African Americans comprised 6.2% of the population, Asian Americans comprised 12.1% of the population, Latinos comprised 43.3% of the population, and minority census tracts comprised 64.7% of all census tracts. Yet home lending by Respondent in 2015 in the Los Angeles CSA did not equitably make credit available and did not help meet community credit needs. Only 1.7% of Respondent's home loans were originated to African American borrowers (compared to 3.6% for the industry); only 8.4% of Respondent's home loans were originated to Asian American borrowers (compared to 11% for the industry); only 8.4% of Respondent's home loans were originated to Latino borrowers (compared to 20.5% for the industry); and only 29.4% of Respondent's home loans were originated in minority census tracts (compared to 49.4% for the industry). These lending figures are well below the representation of protected classes and protected neighborhoods according to CSA demographics.

¹Branch and census data used are current through June 2014.

² The CSA includes the counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura.

Los Angeles CSA	Percent of total population in Los Angeles CSA	Percent of OneWest mortgages originated to these borrowers in 2015	Industry average of mortgages originated to these borrowers in 2015
African American	6.2%	1.7%	3.6%
Asian Americans	12.1%	8.4%	11.4%
Latinos	43.3%	8.4%	22.4%
Whites	35.3%	82.4%	67.8%
50 to 100% Minority Census Tracts	64.7%	29.4%	52.9%

For many years, Respondent's lending to protected classes and in protected neighborhoods is strikingly low in absolute terms and in comparison to that of Respondent's peers. For example, for home loans originated in Respondent's 6 county CRA assessment area, Respondent had the following market shares in 2014:

- .03% of all loans originated
- .02% of all loans originated in majority minority census tracts
- .02% of all loans originated to Asian borrowers
- .01% of all loans originated to Latino borrowers
- 0% of all loans originated to African American borrowers (no loans originated)

Complainant CRC states that even according to data provided by Respondent, Respondent's lending to Asian American and African American borrowers, and to majority minority communities, is also below peer lending and the demographics of the communities where Respondent is engaged in business activity.

According to data submitted to bank regulators by Respondent,³ for lending in Los Angeles County:

- In 2012, out of 43 home purchase and home improvement loans, Respondent made 0 loans to African Americans.
- In 2013, out of 26 home purchase and home improvement loans, Respondent made 0 loans to African Americans.
- In 2012, Respondent had a 10.1% Asian American origination market share, while its peers were at 24.2%. In other words, Respondent's Asian American market share was less than half the industry average.
- In 2013, Respondent similarly had an 11% Asian American origination market share, while its peers were at 23%, with Respondent at less than half the industry average.

Again, these data points were provided by Respondent to the Federal Reserve Bank of New York as part of the CIT Group, Inc. and OneWest Bank merger process.

Respondent's systemic practice of failing to effectively market, offer and originate mortgage loans and other loan products in communities of color violates the Fair Housing Act, 42 U.S.C. §§ 3601, et seq. and HUD's implementing regulations.

D. Respondent's Role in Maintaining and Marketing REO Properties

A property becomes an REO property when a bank or lender has foreclosed upon or repossessed a home from a homeowner or borrower and the ownership of the property has reverted to the bank or lender. After a foreclosure occurs, the foreclosing entity that owns the REO property has the responsibility to maintain the property and engage in disposition strategies, including but not limited to sale to a potential owner-occupant or investor, donation to a non-profit or local government entity, conveyance, or bulk auction. In addition, the owner of a REO property may contract with another entity to service or maintain the REO property. Respondent is the owner of REO properties and is responsible for preserving, maintaining, marketing, and selling REO properties.

Respondent utilizes employees and agents to preserve, maintain, service, market, and sell REO properties throughout the United States. Respondent has a vast network of brokers/agents who list REO properties on behalf of Respondent and help to maintain and market those properties. Respondent also contracts with asset management companies that perform preservation and maintenance work on REO properties on its behalf. Respondent is responsible for the acts of its employees, agents, brokers, contractors and servicers.

³ RESPONSES TO THE REQUEST FOR ADDITIONAL INFORMATION DATED DECEMBER 10, 2014 FROM THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM IN CONNECTION WITH THE APPLICATION TO THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM RELATING TO THE PROPOSED ACQUISITION OF IMB HOLDCO LLC BY CIT GROUP INC. AND CARBON MERGER SUB LLC, December 22, 2014, pp. 6, 7, available at: https://www.federalreserve.gov/bankinforeg/2014-12-22_Response_to_2014-12-10_AI_Request.pdf

E. Complainant's Investigation Demonstrates a Pattern of Disparities Based upon Race, National Origin and/or Color in How Respondent Maintains and Markets REO Properties in Communities of Color Compared to Predominantly White Communities

From April 2014 – May 2016, Complainant FHANC investigated sixteen of Respondent's REO properties in Solano and Contra Costa Counties, six in predominantly Latino communities, seven in predominantly non-White communities, and three in predominantly White communities. Complainant employed a methodology for investigating how REO properties are maintained and marketed, measuring whether there are differences between how REO properties are maintained and marketed in communities of color compared to REO properties in predominantly White communities. A predominantly non-White neighborhood is defined as one in which 50% or greater of the population is non-White.

Investigators visited and photographed the properties in question, noting the number and type of deficiencies present on the REO. Deficiencies denote problems with important maintenance issues addressing curb appeal, health and safety items, structural issues for marketing the REO, and maintaining property values in a way that one would expect of a good neighbor. Evaluation measures include curb appeal (trash, leaves, overgrown grass, overgrown shrubs, invasive plants, dead grass); structure (broken windows, broken doors, damaged fences, damaged roof, holes, wood rot); signage (trespassing/warning signs, "Bank owned," "auction," or "Foreclosure" signs, "For Sale" signs missing/discarded); paint/siding (graffiti, excessive peeling/chipped paint, damaged siding); gutters (missing, out of place, broken, hanging, obstructed); water damage (mold, algae, discoloration, excessive rust, erosion); utilities (tampered with or exposed). No homes that were occupied or undergoing construction were evaluated in this complaint.

Results of Complainant FHANC's REO investigations demonstrate a pattern of far fewer maintenance deficiencies or problems in predominantly White communities as opposed to communities of color in line with patterns that have been seen with Fannie Mae, Bank of America, US Bank, and other lending institutions. While Respondent's REO properties in White communities were generally well maintained and well marketed with manicured lawns, securely locked doors and windows, and attractive, professional, "for sale" signs posted out front, Respondent's REO properties in communities of color were more likely to have trash strewn about the premises, overgrown grass, shrubbery, and weeds, and boarded or broken doors and windows among many other curb appeal and structural issues. The only exception was an REO property in a White community that is 52-53% White and borders a community of color. Respondent's REOs in communities of color appear abandoned, blighted, and unappealing to potential homeowners, even though they are located in stable neighborhoods with surrounding homes that are well-maintained.

Overall, REO properties in White communities were far more likely to have a small number of maintenance deficiencies or problems than REO properties in communities of color, while REO properties in communities of color were far more likely to have large numbers of such deficiencies or problems than those in White communities. In addition, in these metropolitan areas, Complainants documented significant racial disparities in many of the objective factors

evaluated. Complainant FHANC's investigation of Respondent's REO properties highlights disparities in the maintenance and marketing of REO properties in communities of color vs. predominantly White communities.

Complainant FHANC found the following patterns based upon its investigation of sixteen REO properties owned by Respondent in Solano and Contra Costa Counties:

- 66.7% of the REO properties in White communities had **fewer than 5 maintenance or marketing deficiencies**, while none of the REO properties in communities of color had fewer than 5 deficiencies.
- 100.0% of the REO properties in communities of color had **5 or more maintenance or marketing deficiencies**, while only 33.3% of the REO properties in predominantly White communities had 5 or more deficiencies.
- 53.8% of the REO properties in communities of color had **10 or more maintenance or marketing deficiencies**, while none of the REO properties in predominantly White communities had 10 or more deficiencies.
- 7.7% of the REO properties in communities of color had **15 or more maintenance or marketing deficiencies**, while none of the REO properties in predominantly White communities had 15 or more deficiencies.

REO properties in communities of color were far more likely to have certain types of deficiencies or problems than REO properties in predominantly White communities. Complainant FHANC found significant racial disparities in the majority of the objective factors it measured, including the following:

- 61.5% of the REO properties in communities of color had **substantial amounts of trash** on the premises, while none of the REO properties in predominantly White communities had the same problem.
- 30.8% of the REO properties in communities of color had **accumulated mail**, while none of the REO properties in predominantly White communities had the same problem.
- 61.5% of the REO properties in communities of color had **overgrown grass or dead leaves**, while none of the REO properties in predominantly White communities had the same problem.
- 15.4% of the REO properties in communities of color had at least **10% to 50% of the property covered in dead grass**, while none of the REO properties in predominately White communities had the same problem.

- 23.1% of the REO properties in communities of color had at least **10% to 50% of the property covered in invasive plants**, while none of the REO properties in predominately White communities had the same problem.
- 61.5% of the REO properties in communities of color had **unsecured or broken doors**, while none of the REO properties in predominantly White communities had the same problem.
- 53.8% of the REO properties in communities of color had **broken or boarded windows**, while only 33.3%* of the REO properties in predominantly White communities had the same problem. *The property in question is 52-53% White, bordering a community of color.
- 61.5% of the REO properties in communities of color had a **damaged fence**, while none of the REO properties in predominantly White communities had the same problem.
- 46.2% of the REO properties in communities of color had **holes** in the structure of the home, while none of the REO properties in predominantly White communities had the same problem.
- 15.4% of the REO properties in communities of color had **wood rot**, while none of the REO properties in predominantly White communities had the same problem.
- 61.5% of the REO properties in communities of color had **no professional “for sale” sign marketing the home**, while none of the REO properties in predominantly White communities had the same problem.
- 53.8% of the REO properties in communities of color had **damaged siding**, while none of the REO properties in predominantly White communities had the same problem.
- 15.4% of REO properties in communities of color had **missing or out of place gutters**, while none of the REO properties in predominantly White communities had the same problem.
- 30.8% of REO properties in communities of color had **broken or hanging gutters**, while none of the REO properties in predominantly White communities had the same problem.
- 23.1% of the REO properties in communities of color had **exposed or tampered-with utilities**, while none of the REO properties in predominantly White communities had the same problem.

Respondent's systemic practice of failing to maintain REO properties in communities of color on the same basis as they maintain properties in White communities violates the Fair Housing Act, 42 U.S.C. §§ 3601, et seq. and HUD's implementing regulations.

LEGAL CLAIMS

FIRST CAUSE OF ACTION: 42 U.S.C. § 3604(b)

Section 3604(b) states it is unlawful “[t]o discriminate against any person in the terms, conditions, or privileges of sale . . . of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color . . . or national origin [.]” 42 U.S.C. § 3604(b). HUD's implementing regulations state “[i]t shall be unlawful, because of race . . . , to impose different terms, conditions or privileges relating to the sale . . . of a dwelling or to deny or limit services or facilities in connection with the sale . . . of a dwelling.” 24 C.F.R. § 100.65(a), and in particular that “prohibited actions under this section include, but are not limited to: . . . Failing or delaying maintenance or repairs of sale or rental dwellings because of race[.]” Id. § 100.65(b)(2) (emphasis added). By consistently failing to undertake basic maintenance or repairs of REO properties in communities of color while consistently maintaining and/or repairing REO properties in predominantly White communities in a superior fashion, Respondent engages in the “prohibited action” of “failing or delaying maintenance or repairs of sale . . . dwellings because of race,” id. § 100.65(b)(2), and thereby discriminates “in the terms, conditions, or privileges of sale . . . dwelling, or in the provision of services or facilities in connection therewith, because of race, color . . . and national origin[.]” 42 U.S.C. § 3604(b). Additionally, Respondent's acts, policies, and practices, in its retail branch location and its home loan marketing and origination penetration, have provided and continue to provide different terms, conditions, and/or privileges of sale of housing, as well as different services and facilities in connection therewith, on the basis of race, national origin and/or color in violation of 42 U.S.C. §3604(b).

SECOND CAUSE OF ACTION: 42 U.S.C. § 3604(c)

Section 3604(c) broadly prohibits discrimination in the advertising of dwellings for sale or rent. See 42 U.S.C. § 3604(c). HUD's regulations state it is unlawful to “make, print, or publish” a discriminatory notice, statement or advertisement about a dwelling for sale, including through signs, banners, posters or any other documents. 24 C.F.R. § 100.75(a)-(b). In particular, “[d]iscriminatory notices, statements and advertisements include, but are not limited to” “[s]electing media or locations for advertising the sale . . . of dwellings which deny particular segments of the housing market information about housing opportunities because of race,” id. § 100.75(c)(3), and “[r]efusing to publish advertising for the sale . . . of dwellings or requiring different charges or terms for such advertising because of race, color . . . or national origin[.]” Id. § 100.75(c)(4). Respondent's practice of failing to advertise its REO properties with a “for sale” sign in communities of color at substantially the same rate as in predominantly White communities and its related practice of posting signs in communities of color that convey a message that homes are dangerous, undesirable, or distressed violates § 3604(c) and 24 C.F.R. § 100.75(c) and (d) by selecting advertising locations that deny communities of color vital information about opportunities to purchase REO properties, and by refusing to publish

advertising or using different terms to advertise REO properties in communities of color, because of race, color and/or national origin.

THIRD CAUSE OF ACTION: 42 U.S.C. § 3604(d)

Section 3604(d) makes it unlawful “to represent to any person because of race . . . that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available.” 42 U.S.C. § 3604(d). HUD’s implementing regulations state that “[i]t shall be unlawful, because of race . . . to provide inaccurate . . . information about the availability of dwellings for sale or rental,” including by “[l]imiting information, by word or conduct, regarding suitably priced dwellings available for inspection, sale or rental, because of race,” or by “[p]roviding . . . inaccurate information regarding the availability of a dwelling for sale . . . to any person . . . because of race, color . . . or national origin[.]” 24 C.F.R. § 100.80(a), (b)(4)-(5). Through a combination of sub-standard maintenance, failing to market homes as “for sale,” and the affirmative marketing of these homes as dangerous, undesirable, or distressed, Respondent violates § 3604(d) by conveying an inaccurate message to existing homeowners and prospective purchasers in communities of color that its REO properties in communities of color are “not available for inspection, [or] sale, . . . when such dwelling[s] [are] in fact so available,” because of the race, color or national origin of the homeowners or purchasers in these communities of color. 42 U.S.C. § 3604(d). In addition, the same practices drastically limit information or provide inaccurate information about the availability of REO properties because of race in violation of 24 C.F.R. § 100.80(b)(4), and (5).

FOURTH CAUSE OF ACTION: 42 U.S.C. § 3604(a)

Section 3604(a) states that it is unlawful to “refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color . . . or national origin[.]” 42 U.S.C. § 3604(a). Respondent’s differential treatment in maintenance and marketing of REO properties violates § 3604(a), as it “refuse[s] . . . to negotiate” or “us[es] different . . . sale . . . standards or procedures . . . or other requirements . . . because of race.” 24 C.F.R. § 100.60(b)(2), (4). Furthermore, these practices “restrict . . . the choices of a person by word or conduct in connection with seeking, negotiating for, buying . . . a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns,” by conveying a message to prospective purchasers that REO properties in communities of color are not available or desirable. 24 C.F.R. § 100.70(a). Specifically, these practices “exaggerat[e] [the] drawbacks” of REO properties, “fail to inform” purchasers of “desirable features of a dwelling or of a community, neighborhood, or development,” and “discourag[e]” persons “from inspecting [or] purchasing” REO properties “because of the race . . . of persons in a community, neighborhood, or development.” 24 C.F.R. § 100.70(c)(1)-(2). Finally, in the most severe instances of poor maintenance, Respondent’s practices can cause REO properties in communities of color to fall into such disrepair that they cannot be restored and must be demolished, making them completely “unavailable” to purchasers. See 24 C.F.R. § 100.70(b). Additionally, Respondent’s acts, policies, and practices, in its retail branch location and its loan marketing and origination penetration, have made and continue to make housing unavailable on the basis of race, color or national origin, in violation of 42 U.S.C. § 3604(a).

FIFTH CAUSE OF ACTION: 42 U.S.C. § 3605

Section 3605 states that “It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

(b) Definition.--As used in this section, the term "residential real estate-related transaction" means any of the following: (1) The making or purchasing of loans or providing other financial assistance-- (A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or (B) secured by residential real estate. Here, Respondent’s acts, policies and practices in its retail branch location and its loan marketing and origination penetration have provided and continue to provide different terms, conditions and/or privileges on the basis of race and/or color in connection with the making of residential real estate related transactions, in violation of 42 U.S.C. §3605. Respondent avoided the credit needs of majority minority neighborhoods and residents, thereby engaging in acts or practices directed at prospective applicants that discouraged people in minority neighborhoods from applying for credit.

As a result of such discriminatory conduct, individuals, homeowners, small businesses, local jurisdictions, and local institutions in the communities served by Complainant CRC and its member organizations and Complainant FHANC, have been subjected to: 1) decreased opportunities to access home purchase, home and refinance, and other loan products; 2) decreased access to banking services available at retail banking offices and branches; and 3) decreased opportunities for orderly maintenance and transfer of properties and ensuing increased risk of destabilized and blighted communities.

Concurrently with, and in part resulting from, Respondent’s disinvestment, foreclosures and faulty REO property maintenance practices in neighborhoods of color, the Los Angeles MSA, Los Angeles CSA, Respondent’s CRA assessment area, Solano and Contra Costa County communities, and communities throughout the state have been negatively impacted. Communities have witnessed the large scale purchase by investors of distressed REO properties and distressed loans, the dramatic increase in the cost of homeownership and rental housing, and the gentrification of communities of color and displacement of large numbers of protected classes of people. These dynamics have been exacerbated by Respondent’s failure to make home mortgage and other loan products, housing, branch access, adequate REO property maintenance and marketing, and related services and products available to Asian American, African American, Latino, and other of color residents and communities.

Complainants believe this discriminatory conduct is ongoing and will not abate without intervention. Further, complainants assert that these allegations demonstrate a pattern and practice of discriminatory conduct by Respondent. Additional context, including widespread foreclosures⁴ in neighborhoods of color by Respondent⁵ paints an even clearer picture of an

⁴ Complainant CRC’s analysis of HUD’s response to CRC’s Freedom of Information Act (FOIA) request found that Respondent’s subsidiaries and affiliates were responsible for at least 38% of all foreclosures on seniors, non-

institution that serves white communities with branches and loans, and interacts with neighborhoods of color and vulnerable communities through foreclosures.

In response, Complainants have expended considerable resources to bring Respondent's discriminatory practices to light, and in so doing, have put Respondent on notice as to its discriminatory practices, conduct and impact, on California residents and communities in violation of the Fair Housing Act, 42 U.S.C. section 3604 and 3605.

borrower spouses and their family members as part of the FHA Home Equity Conversion Mortgage (HECM) program from April 2009. Additional CRC analysis finds that of all of Respondent's foreclosures in California on reverse mortgage borrowers, non-borrower spouses and their family members, 47% were in neighborhoods where most of the residents were people of color.

⁵ Complainant CRC's analysis of Respondent's 36,382 foreclosures in California from April 2009 to April 2015 found that 68% of such foreclosures were in majority minority zip codes, and that 35% of Respondent's California foreclosures were in zip codes where 75% of the residents were people of color.

BLOOMBERG

OneWest Seeks Wall Street's Help Lobbying Yellen on CIT

Matthew Monks and Elizabeth Dexheimer

January 8, 2015, 2:06 PM PST

A California group that advocates for low-income borrowers is calling on regulators to hold hearings on the biggest U.S. bank sale of 2014. The target of that deal, OneWest Bank, is pushing back in an unusual way.

OneWest Chief Executive Officer Joseph Otting sent an e-mail to his contacts on Wall Street this week asking for help to discourage bank overseers from holding public hearings on its \$3.4 billion takeover by CIT Group Inc.

Otting's e-mail includes a link to a petition addressed to Federal Reserve Chair Janet Yellen and others stating that "there is no need for a public hearing." The contents of the e-mail were described by executives at investment banks who received the message and spoke on the condition that they not be named so as not antagonize a potential client.

"I have never heard anything like this," said Bert Ely, an independent banking consultant. "It strikes me as unusual and kind of overkill, unless possibly there is a problem that hasn't surfaced publicly yet that they are trying to mitigate or minimize."

OneWest is the former IndyMac Bancorp, which failed in 2008 and was acquired by a group of investors including George Soros and John Paulson the next year.

"It's general business practice to solicit comments from key constituencies, including customers, community organizations and trade associations, to highlight the support a proposed merger/transaction has within the community," David Isaacs, a spokesman for OneWest, said in an e-mailed statement. Representatives of CIT and the Fed declined to comment.

Sale Criticism

IndyMac's 2009 sale by the Federal Deposit Insurance Corp. was the target of protests by foreclosed homeowners outside the residence of Steven Mnuchin, its chairman. Mnuchin, a former Goldman Sachs Group Inc. partner, brought together Soros, Paulson and others including Michael Dell to acquire IndyMac for about \$1.5 billion.

Those backers agreed last July to sell Pasadena, California-based OneWest to CIT, the New York business lender run by John Thain, and that's revived the protests.

A copy of Otting's e-mail was forwarded to Bloomberg News by Kevin Stein, associate director of the California Reinvestment Coalition, or CRC, which advocates for low-income borrowers and is a primary opponent of the deal.

His group, which organized a protest at OneWest's headquarters in December, has argued in letters to state and federal regulators that the deal will create another "too-big-to fail" bank. The transaction would enrich OneWest management with little benefit to the community, CRC said.

Yellen Letter

Below a message titled "Show your support for OneWest Bank," visitors to the OneWest website are encouraged to add their name and address to a form letter to Yellen.

"This merger will retain and create new jobs in California," the letter reads. "I believe the management team and OneWest have demonstrated its commitment to our community and to serving the needs of not only their clients but the community at large and due to this, I do not believe there is a need for a public hearing."

Regulators have made it harder for big banks to merge since taxpayers bailed out the largest U.S. lenders during the financial crisis. M&T Bank Corp.'s \$3.7 billion deal for Hudson City Bancorp. Inc. has been stalled since 2012. The Fed delayed Capital One Financial Corp.'s \$9 billion acquisition of ING Groep NV's online bank for public hearings.

The CIT deal is slated to close in the first half of 2015, pending approval from the Fed and Office of the Comptroller of the Currency.

CIT would have \$67 billion in assets and 73 branches after buying OneWest, according to an investor presentation in July. At that size, CIT would become the 36th largest bank holding company by assets, according to regulatory data.

Finnegan, David

From: (b)(6)@gmail.com on behalf of (b)(6)
<(b)(6)>
Sent: Friday, January 16, 2015 12:57 PM
To: Finnegan, David
Subject: Fraudulent use of my email account (RE: Support for the OneWest and CIT Merge)
Categories: Red Category

Mr. David Finnegan
OCC

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I will appreciate your reply acknowledging this very important notice. Thank you very much!

Sincerely,

(b)(6)

----- Forwarded message -----

From: WE Licensing <WE.Licensing@occ.treas.gov>
Date: Fri, Jan 16, 2015 at 11:34 AM
Subject: RE: Support for the OneWest and CIT Merger
To: "(b)(6)" <(b)(6)>

Dear Commenter,

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<http://occ.gov/publications/publications-by-type/licensing-manuals/PublicNCbooklet.pdf>

We appreciate your comments and will consider them during our review of the application. If you have questions, please contact David Finnegan at (720) 475-7650 or

David.finnegan@occ.treas.gov.

Please be advised that a representative of OneWest Bank, National Association has been provided a copy of your comment.

-----Original Message-----

From: (b)(6) [mailto:(b)(6)]
Sent: Friday, January 16, 2015 11:42 AM
To: comments.applications@ny.frb.org; WE Licensing
Subject: Support for the OneWest and CIT Merger

(b)(6)

E-Mail: (b)(6)

Subject: Support for the OneWest and CIT Merger

Dear Chair Yellen, President Dudley and Comptroller Curry,

I am writing to offer my support for the pending OneWest and CIT merger. OneWest serves as a strong source of capital and banking services to the Southern California community. This merger will retain and create new jobs in California. I believe the management team and OneWest have demonstrated its commitment to our community and to serving the needs of not only their clients but the community at large and due to this, I do not believe there is a need for a public hearing.

Kind regards,

(b)(6)

Finnegan, David

From: (b)(6)
Sent: Friday, January 16, 2015 7:56 PM
To: Finnegan, David
Subject: OneWest/CIT

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

I am NOT the writer of the communication below – name, address & zip are wrong:

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From: (b)(6) [mailto:(b)(6)]
Sent: Friday, January 16, 2015 12:13 PM
To: comments.applications@ny.frb.org; WE Licensing
Subject: Support for the OneWest and CIT Merger

(b)(6)

E-Mail: (b)(6)

Subject: Support for the OneWest and CIT Merger

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Kind regards,

(b)(6)

Finnegan, David

From: Finnegan, David
Sent: Tuesday, January 20, 2015 8:02 AM
To: (b)(6)
Subject: RE: OneWest/CIT

Thank you for letting us know.

David W. Finnegan
Senior Licensing Analyst/NBE
Western District
720/475-7653

From: (b)(6)
Sent: Friday, January 16, 2015 7:56 PM
To: Finnegan, David
Subject: OneWest/CIT

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From: (b)(6)
Sent: Friday, January 16, 2015 12:13 PM
To: comments.applications@ny.frb.org; WE Licensing
Subject: Support for the OneWest and CIT Merger

(b)(6)

E-Mail: (b)(6)

Subject: Support for the OneWest and CIT Merger

Dear Chair Yellen, President Dudley and Comptroller Curry,

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Kind regards,

(b)(6)

Finnegan, David

From: (b)(6)@yahoo.com
Sent: Wednesday, February 18, 2015 9:46 AM
To: WE Licensing
Subject: Re: Support for the OneWest and CIT Merger

I did not write this letter!

Sent from (b)(6)

> On Feb 18, 2015, at 8:18 AM, WE Licensing <WE.Licensing@occ.treas.gov> wrote:

>
> Dear Commenter,
>
> The Office of the Comptroller of the Currency (OCC) acknowledges receipt of your comments regarding the merger of CIT Bank, Salt Lake City, UT with and into OneWest Bank, National Association, Pasadena, CA.

> The OCC has decided it will hold a public meeting regarding the merger. Please refer to the following link for more information. <http://www.occ.gov/news-issuances/news-releases/2015/nr-ia-2015-17.html>

> For more information regarding the OCC's practice on receipt and review of public comments received in connection with pending applications, please see Comptroller's Licensing Manual (Public Notice and Comments) at <http://occ.gov/publications/publications-by-type/licensing-manuals/PublicNCbooklet.pdf>

> Please be advised that comments are published without redaction of personally identifiable information including any business or personal information such as name and address, e-mail addresses, or telephone numbers. A representative of OneWest Bank, National Association has been provided a copy of your comment.

> We appreciate your comments and will consider them during our review of the application. If you have questions, please contact David Finnegan at (720) 475-7650 or David.finnegan@occ.treas.gov.

> -----Original Message-----

> From: (b)(6)@yahoo.com [mailto:(b)(6)@yahoo.com]

> Sent: Saturday, February 14, 2015 4:36 AM

> To: comments.applications@ny.frb.org, WE Licensing

> Subject: Support for the OneWest and CIT Merger

> (b)(6)

> (b)(6)

> E-Mail: (b)(6)@yahoo.com

> Subject: Support for the OneWest and CIT Merger

> Dear Chair Yellen, President Dudley and Comptroller Curry,

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...
! !
serving the needs of not only their clients but the community at large and due to this, I do not believe there is a need for a public hearing.

>

> Kind regards,

> (b)(6)

>

>

>

>

Finnegan, David

From: (b)(6)@yahoo.com
Sent: Monday, February 23, 2015 11:24 PM
To: WE Licensing
Subject: Re: Support for the OneWest and CIT Merger

To whom it may concern<
I never send this email. I am not aware of the merge of the companies
Someone got a hold on my email address. Sorry
Thanks,

(b)(6)

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Dear Commenter,

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-----Original Message-----

From: (b)(6)@yahoo.com [mailto:(b)(6)@yahoo.com]
Sent: Saturday, February 14, 2015 4:35 AM
To: comments.applications@ny.frb.org, WE Licensing
Subject: Support for the OneWest and CIT Merger

(b)(6)

(b)(6)

E-Mail: (b)(6)@yahoo.com

Finnegan, David

From: Finnegan, David
Sent: Tuesday, January 20, 2015 8:04 AM
To: (b)(6)
Subject: RE: Fraudulent use of my email account (RE: Support for the OneWest and CIT Merge)

Thank you for letting us know about this situation.

David

David W. Finnegan
Senior Licensing Analyst/NBE
Western District
720/475-7653

From: (b)(6)@gmail.com [mailto:(b)(6)@gmail.com] **On Behalf Of** (b)(6)
Sent: Friday, January 16, 2015 12:57 PM
To: Finnegan, David
Subject: Fraudulent use of my email account (RE: Support for the OneWest and CIT Merge)

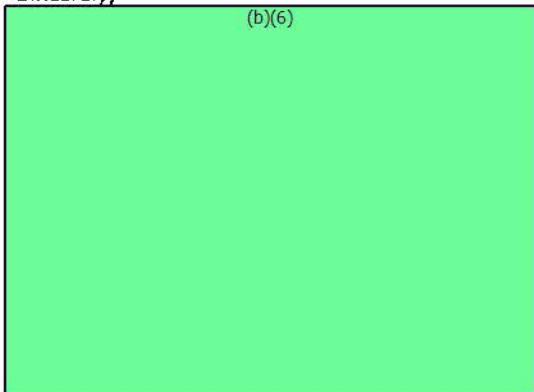
Mr. David Finnegan
OCC

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I will appreciate your reply acknowledging this very important notice. Thank you very much!

Sincerely,

(b)(6)



----- Forwarded message -----
From: WE Licensing <WE.Licensing@occ.treas.gov>
Date: Fri, Jan 16, 2015 at 11:34 AM
Subject: RE: Support for the OneWest and CIT Merger

To: (b)(6) (b)(6)

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From: (b)(6) [mailto:(b)(6)]

Sent: Friday, January 16, 2015 11:42 AM

To: comments.applications@ny.frb.org; WE Licensing

Subject: Support for the OneWest and CIT Merger

(b)(6)

E-Mail: (b)(6)

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Kind regards,

(b)(6)

Finnegan, David

From: Finnegan, David
Sent: Tuesday, January 20, 2015 8:13 AM
To: Salley, Stephen M (Salleys@sullcrom.com)
Subject: FW: OneWest/CIT

FYI and review. We would appreciate any information you can provide regarding this submission.

Thank you,
David

David W. Finnegan
Senior Licensing Analyst/NBE
Western District
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E-Mail. (b)(6)

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(b)(6)

Finnegan, David

From: Finnegan, David
Sent: Tuesday, January 20, 2015 8:13 AM
To: Salley, Stephen M (Salley@sulicrom.com)
Subject: FW: Fraudulent use of my email account (RE: Support for the OneWest and CIT Merge)

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David

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Western District
720/475-7653

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Subject: Fraudulent use of my email account (RE: Support for the OneWest and CIT Merge)

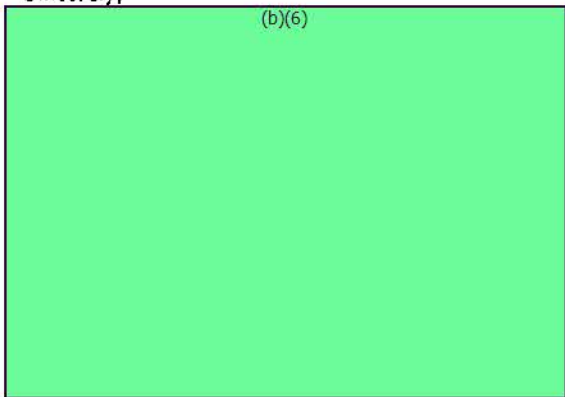
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-----Original Message-----

From: (b)(6) [mailto:(b)(6)]

Sent: Friday, January 16, 2015 11:42 AM

To: comments.applications@ny.frb.org; WE Licensing

Subject: Support for the OneWest and CIT Merger

(b)(6)

E-Mail: (b)(6)

Subject: Support for the OneWest and CIT Merger

Dear Chair Yellen, President Dudley and Comptroller Curry,

I am writing to offer my support for the pending OneWest and CIT merger. OneWest serves as a strong source of capital and banking services to the Southern California community. This merger will retain and create new jobs in California. I believe the management team and OneWest have demonstrated its commitment to our community and to serving the needs of not only their clients but the community at large and due to this, I do not believe there is a need for a public hearing.

Kind regards,

(b)(6)



January 9, 2019

Ms. Paulina Gonzalez-Brito
Executive Director
California Reinvestment Coalition
474 Valencia Street, Suite 230
San Francisco, CA 94103

Dear Ms. Gonzalez-Brito:

On behalf of the Office of the Comptroller of the Currency (OCC), I am writing to correct the untrue assertions and mischaracterizations in the California Reinvestment Coalition's (CRC) recent releases about the OCC's Community Reinvestment Act (CRA) Advance Notice of Proposed Rulemaking (ANPR).

In issuing its CRA ANPR, seeking stakeholder input, and reviewing the many public comments received, the OCC is encouraging constructive public dialogue on how best to align CRA implementation with the significant changes in the way consumers and businesses bank today.

The OCC's goal is to *strengthen* the CRA to facilitate *even greater* community and economic development lending by banks to low- and moderate-income areas, small businesses, and other communities in need of financial services.

CRC's assertion that the OCC seeks to weaken the CRA and to silence community voices is false and negatively prejudging. Quite to the contrary, the OCC's process is encouraging community discourse by engaging stakeholders and transparently soliciting public comment on how best to strengthen CRA regulations. The public comment process provides the opportunity to hear from a broad cross section of community, consumer, and civil rights organizations.

Comptroller Joseph M. Otting, myself, and other senior OCC executives have during the past year—and well before formulating and issuing the CRA ANPR on August 28, 2018—met personally with and sought input from many community groups. We met with the leaders and members of national and regional community development and consumer protection organizations as well as national civil rights organizations. For example, the Comptroller met with the National Community Reinvestment Coalition's (NCRC) leadership to discuss CRA modernization, and as a follow up to that meeting, Senior Deputy Comptroller for Compliance and Community Affairs Grovetta Gardineer and I met with the NCRC's Banker/Community Collaborative Council.

The OCC's broad stakeholder engagement has resulted in receiving valuable feedback on the 31 questions posed in our CRA ANPR. In response, the OCC is pleased to have received more than 1,500 comment letters, including several hundred from community organizations. This response shows that the OCC has, in fact, *successfully encouraged community voices*, not silenced them, and I am offended that the CRC would suggest otherwise.

The next step will also include the opportunity for broad stakeholder inclusion and public comment, consistent with long-standing practice of the interagency rulemaking process.

In summary, the OCC's has successfully solicited and received public comments from a broad range of stakeholders on how best to strengthen CRA and will continue to seek to be inclusive in our rulemaking process. Our efforts illustrate the OCC's continuing commitment to ensuring this goal and the original intent of the CRA amid the rapid and continuing evolution of the financial services landscape across the United States.

Strengthening the CRA is an important public goal. I ask that you refrain from mischaracterizing the OCC's CRA ANPR in any future CRC releases and other public communications.

Sincerely,



Barry Wides
Deputy Comptroller for Community Affairs



October 2, 2019

Ms. Paulina Gonzalez-Brito
Executive Director
California Reinvestment Coalition
474 Valencia Street, Suite 230
San Francisco, CA 94103

Subject: Correction to your September 16, 2019, email regarding modernizing Community Reinvestment Act (CRA) regulations

Dear Ms. Gonzalez-Brito:

I am writing to ask that California Reinvestment Coalition (CRC) correct the assertion in its September 16, 2019, email communication that the OCC is seeking to “mak[e] life easier for banks to get credit for CRA activity while doing less to boost our communities.” The statement is misleading and unsupported by any facts that we are aware of. If you have information that supports your position, please forward that information to the agency for review.

The OCC, and the Comptroller specifically, has repeatedly stated in various statements, appearances, and media that the goal of CRA modernization is to strengthen CRA rules to facilitate more community and economic development activity by banks to meet the needs of their communities, including low- and moderate-income areas. The CRA Advance Notice of Proposed Rulemaking, published in August of 2018, also stated that clear intent and sought input from all stakeholders on how best to improve CRA regulations. The OCC remains committed to preserving and strengthening the CRA regulatory framework to ensure it works better for all stakeholders.

The OCC also remains committed to gathering constructive feedback from all interested stakeholders about CRA modernization. OCC senior executives were pleased to have had the opportunity to meet with you and 17 other representatives of CRC and its member organizations to discuss CRA modernization on March 13, 2019 and April 12, 2018. We look forward to your feedback, and comments from all stakeholders, on the Notice of Proposed Rulemaking that the Comptroller hopes to issue on an interagency basis this fall.

Sincerely,

Barry Wides
Deputy Comptroller for Community Affairs

cc: Jonathan Gould

BankThink Setting the record straight on CRA reform

By Barry Wides

Published March 25 2019, 9:00am EDT

Applying an outdated regulatory framework for the Community Reinvestment Act — written for the way customers banked in the 1970s, '80s and '90s — creates unnecessary restrictions and burdens on what banks can do to benefit communities in need of help.

Communities, banks and the customers they serve deserve better. Clarity is needed about which bank activities, in which communities, should receive CRA consideration from regulators.

To this end, the OCC issued an advance notice of proposed rulemaking in August. The ANPR did not make any regulatory proposals. Instead, it presented 31 questions on a variety of issues and options that could reform the CRA

framework, including one that asked stakeholders to tell us what issues we may have missed. The OCC solicited input from all stakeholders — on all sides of the debate — regarding any and all ideas and opinions about how regulators might strengthen and enhance the CRA framework.

Most important, the purpose of the OCC's ANPR was to spark a robust and important public discussion about how, with all stakeholders working together, we could encourage more CRA activities in communities that need them most. As Comptroller of the Currency Joseph M. Otting said in issuing the ANPR, "It is time for a national discussion on how we can make the CRA work better." This important discussion is long overdue. The OCC took a necessary step and challenged the status quo simply by soliciting any and all opinions from stakeholders for and against reforming the CRA framework.

"It is time for a national discussion on how we can make the CRA work better," said Comptroller of the Currency Joseph Otting, right. Other regulators, including Fed Vice Chairman for Supervision Randal Quarles, have indicated that we need to modernize and strengthen the CRA regulatory framework.[Bloomberg News](#)

I am generally pleased with the discussion underway and the progress so far. The OCC received approximately 1,500 comment letters with varied opinions and insights that otherwise would not have been available to regulators. In the comments about the ANPR, there was broad agreement that evaluating assessment areas only where banks have their main offices, branches and deposit-taking ATMs is difficult to reconcile with banking in the 21st century.

Many commenters also cited the need for regulators to address the conundrum in many rural distressed areas (including Native American territories), which do

not get enough CRA investment today because too few banks operate there. The distressed communities that CRA activities currently fail to reach, so-called CRA deserts, could and would benefit from bank regulators identifying and implementing ways to make our CRA regulations less cumbersome and complex.

Most commenters also agreed that regulators need to provide a transparent way of knowing what counts for CRA consideration and what does not. Bankers and their community development partners should know in advance whether investments or services worth millions of dollars would qualify for CRA consideration.

Unfortunately, certain stakeholders have not contributed positively to the public discussion. Instead, some opted to distort facts by inaccurately portraying the purpose and content of the ANPR. They incorrectly claimed that the ANPR made regulatory proposals, when it did not. They asserted the ANPR would lead to the loss of billions of dollars in bank CRA activities, when this is not true. Quite to the contrary of such false claims, the ANPR sought suggestions for how the CRA framework might be reformed to *increase* lending, investment and banking services in low- and moderate-income communities and to make CRA evaluation more objective and transparent.

Fortunately, while these misleading claims hindered the constructive public dialogue about CRA reforms, it has not derailed this important discussion. Good progress has been made. Since November, the OCC has reviewed and analyzed the varying views expressed in the comment letters from community groups, academics, bankers, industry groups, regulators and the public. There is clear agreement on this: the CRA has proven over four decades to be a powerful tool for community revitalization and has encouraged trillions of dollars in lending,

investment and other banking activities in low- and moderate-income communities across our nation. Commenters also generally agreed that the time has come for all stakeholders to work together to update and strengthen the CRA regulatory framework.

The time is ripe to enhance the regulations implementing the CRA. When enacted in 1977, it was a simply worded law intended to stop “redlining” by requiring banks to meet the credit needs of communities where they are chartered to do business and receive deposits. From the start, the CRA had an important objective of expanding access to financial services in areas that were not being well served. Bank performance in achieving these goals was made public for all to see and to create incentives for optimal performance.

Today, the CRA’s goals remain critically important. However, in the 42 years since its enactment, the regulations and policies that implement the law have not kept pace with changes in how consumers and businesses bank and how banks deliver their services. These regulations require examiners to evaluate banks according to their assessment areas, as defined by where banks have their headquarters, branches and deposit-taking ATMs. While this approach requires regulators to evaluate the delivery of financial services through bank branches, the regulations do not allow us to assess bank activities outside of those areas, including, for example, online and other non-branch-based services provided by today’s banks. Continuing to use such outdated CRA rules has resulted in the inconsistent application of policies and outcomes that vary from bank to bank and region to region.

The task now before us is to develop a proposed rule that will clarify what counts for CRA, where it counts, how much it counts and how to count it. That rule must

address the weaknesses in the CRA framework and provide greater certainty for everyone — regulators, banks, community development practitioners and community groups — to ensure the CRA continues to benefit and transform distressed communities today and for future generations.

The OCC is eager to work with the other federal banking regulators to jointly develop and issue a proposed rule this summer. While the Federal Reserve and the Federal Deposit Insurance Corp. did not join the OCC in August in issuing the ANPR, the document reflected their input and the valuable insights provided by their staffs. In addition, FDIC Chairman Jelena McWilliams, Federal Reserve Board Chairman Jerome Powell, Fed Vice Chairman for Supervision Randal Quarles and Fed Gov. Lael Brainard have all indicated that we need to modernize and strengthen the CRA regulatory framework and expressed their interest in working together to achieve this important goal.

When a reform proposal is ready, it will be released for public review as a notice of proposed rulemaking — and once again — stakeholders on all sides will be invited to comment before any reforms are finalized. It will continue to be a transparent process, and one that takes the time to consider constructive and honest public comment and discussion.

During my 35-year career, I have seen firsthand the good CRA can do by encouraging banks to transform foreclosed condominiums into badly needed affordable rentals, finance purchases for low- and moderate-income, first-time homebuyers, and promote public welfare investments to bring community development, economic vitality and jobs to distressed communities. I know much more can be done by making our CRA implementation framework more objective, transparent, consistent and easy to understand. By modernizing CRA

regulations, we will *strengthen* and *enhance* the CRA and ensure that it fulfills its original, statutory purpose of encouraging banks to serve their communities.

Print **Reprint**

Barry Wides

Barry Wides is the deputy comptroller for community affairs at the Office of the Comptroller of the Currency.

BankThink Why is OCC scared of public input?

By [Paulina Gonzalez-Brito](#)

Published April 08 2019, 10:27am EDT

A [recent op-ed](#) in American Banker includes a remarkable complaint, alleging that “certain stakeholders have not contributed positively to the public discussion.” The author, Deputy Comptroller Barry Wides, doesn’t name names, but I believe that this public scolding is directed at my organization, the California Reinvestment Coalition.

CRC [has raised serious questions](#) about the advance notice of proposed rulemaking issued by the Office of the Comptroller of the Currency last August. We continue to discuss our concerns with our members, allied organizations and elected officials who believe that financial regulation should seek to combat inequality and protect civil rights. And we believe that this op-ed reflects a

political agenda driven by administration appointees. More troubling than mere sensitivity to criticism, this agenda scorns input from groups that hold banks accountable to their communities.

We believe it's part of an ongoing campaign that reflects the worst tendencies of the rest of the Trump administration: silencing the public in order to break norms with impunity.

Why raise our hands to be named as the targets of anonymous criticism? Because the OCC has directly reprimanded CRC for speaking out. In a bizarre move, the OCC [sent an official letter](#) to our organization less than three months ago that defends the ANPR's outreach and calls our public input "false and negatively prejudging." (This was not prejudging — we read the whole thing and then judged.) It asks "that you refrain from mischaracterizing the OCC's CRA ANPR" in public communications.

It's one thing for kindergarten teachers to ask for nice comments only. It's quite another for a public agency in a democratic government. Using official communications to criticize solicited public input is a chilling move.

This fear of the public is not unique to the ANPR process. Reports suggest that the OCC has unilaterally decided to [smooth the way](#) for mergers by no longer considering critical public comments during the merger process itself, instead relegating them to a separate CRA examination track. A similar plan to wall off the public has been reported for mergers that involve other regulatory agencies; yet another would make FOIA responses [harder to get](#).

Why, then, would the OCC want to chill this particular input? If we're wrong about their intentions, what would they have to hide? If the ANPR doesn't foreshadow a threat to the important role the CRA plays in protecting working-class communities of color and mom-and-pop businesses who have been unfairly denied access to financial products, then the agency has nothing to worry about.

Sadly, there's more evidence that we're right. And it [comes straight from the top](#).

Comptroller Joseph Otting's career in the private sector was the perfect audition to be appointed to eviscerate the CRA. When Otting was CEO of OneWest Bank, a CRC analysis found it to be one of the poorest CRA-performing banks in California, making inadequate reinvestments in low- and moderate-income communities and people, failing to meet local credit needs for affordable homeownership and rental housing, failing to make loans to small businesses and catering to wealthy clients.

Given that track record, we worry that the "outdated regulatory framework" described in these pages refers to policies that direct investment to working people, or that might inhibit companies like OneWest from foreclosing on tens of thousands of Californians, including seniors, widows and their families.

We also worry that the comptroller's public comments reveal this agenda. As The Wall Street Journal reported, [he has publicized plans](#) to "make it harder for community groups to 'pole vault in and hold [bankers] hostage,' " which is to say, prevent communities that have been the victims of redlining from holding banks accountable.

More recently, a CRC FOIA request [confirmed that](#) the OneWest-CIT merger was supported by fabricated letters generated from a template provided by OneWest and issued at the direction of Mr. Otting to his friends and family. Rather than investigate this violation of the law, the OCC has approached public comment in a similar spirit, encouraging compliments and lashing out at critics.

Many of [these concerns were raised](#) by Rep. Katie Porter, D-Calif., in an April 1 letter to the comptroller inquiring whether the CRA risks conflicts of interest and regulatory capture in its approach to CRA. We hope the agency will respond to a member of Congress more openly than it has received our own comments.

Avoiding sunshine and accountability may be the only way the OCC can defend a process that, in a radical break with the norms of rulemaking, has cast aside the traditional balanced process that includes the Federal Reserve and the FDIC and proceeded unilaterally.

What could be more in line with the way this administration has treated ordinary Americans? The picture is clear: They don't want to hear criticism from the public, and they don't want them to see what they're doing.

It's almost like they're building a wall.

Paulina Gonzalez-Brito

Paulina Gonzalez-Brito is executive director of the California Reinvestment Coalition.

December 11, 2019

VIA Electronic Delivery

Chief FOIA Officer
Communications Division
Office of the Comptroller of the Currency
400 7th Street SW
Washington, DC 20219

Re: Freedom of Information Act Records Request

Dear FOIA Officer:

Pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 et seq., and the Office of the Comptroller of the Currency (OCC) and the Department of the Treasury regulations at 12 C.F.R. Part 4 and 31 C.F.R. Part 1, respectively, Democracy Forward Foundation and California Reinvestment Coalition make the following request for records.

Records Requested

In an effort to understand and explain to the public how OCC is responding to community groups’ concerns with its effort to revise the Community Reinvestment Act regulations,¹ Democracy Forward Foundation and California Reinvestment Coalition request that the OCC produce the following within twenty (20) business days:

1. All emails related to the revision of the Community Reinvestment Act regulations whose sender and/or recipient fields include one or more email addresses with a top-level domain “.com,” “.org,” or “.edu.” This does not include comments filed in the public rulemaking docket number OCC-2018-0008, “Reforming the Community Reinvestment Act Regulatory Framework.”²
2. All records containing or reflecting communications, conversations, complaints, interpretations, decisions or actions taken relating to whether public comments related to the Advanced Notice of Proposed Rulemaking (ANPR) “Reforming the Community Reinvestment Act Regulatory Framework” were fabricated, manufactured, or otherwise not authored by the putative signatory.
3. All records containing or reflecting communications to or from Comptroller Joseph Otting or Deputy Comptroller for Community Affairs Barry Wides concerning or relating

¹ Advanced Notice of Proposed Rulemaking, Reforming Community Reinvestment Act Regulatory Framework, OCC (Sept. 5, 2018), <https://www.regulations.gov/document?D=OCC-2018-0008-0001>.

² Docket Folder, Reforming Community Reinvestment Act Regulatory Framework, OCC (last accessed Dec. 2, 2019), <https://www.regulations.gov/docket?D=OCC-2018-0008>.

to California Reinvestment Coalition (CRC) or the American Banker articles “BankThink Why is OCC scared of public input?”³ or “Setting the record straight on CRA reform.”⁴

4. All records containing or reflecting communications from Deputy Comptroller for Community Affairs Barry Wides to persons or entities outside the government seeking corrections of or responding to statements, whether inside or outside the ANPR/rulemaking process, by such persons or entities about the OCC effort to revise the Community Reinvestment Act regulations.

The timeline for this search is September 5, 2018 to the date the search is completed.

Scope of Search

Please search for records regardless of format, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical materials. This request includes, without limitation, all correspondence, letters, emails, text messages, calendar entries, facsimiles, telephone messages, voice mail messages, and transcripts, notes, minutes, or audio or video recordings of any meetings, telephone conversations, or discussions. In searching for responsive records, however, please exclude publicly available materials such as news clips that mention otherwise responsive search terms.

FOIA requires agencies to disclose information, with only limited exceptions for information that would harm an interest protected by a specific exemption or where disclosure is prohibited by law. 5 U.S.C. § 552(a)(8)(A). In the event that any of the requested documents cannot be disclosed in their entirety, we request that you release any material that can be reasonably segregated. *See id.* 5 U.S.C. § 552(b). Should any documents or portions of documents be withheld, we further request that you state with specificity the description of the document to be withheld and the legal and factual grounds for withholding any documents or portions thereof in an index, as required by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). Should any document include both disclosable and non-disclosable material that cannot reasonably be segregated, we request that you describe what proportion of the information in a document is non-disclosable and how that information is dispersed throughout the document. *Mead Data Cent., Inc. v. U.S. Dep’t of Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

If requested records are located in, or originated in, another agency, department, office, installation or bureau, please refer this request or any relevant portion of this request to the appropriate entity.

To the extent that the records are readily reproducible in an electronic format, we would prefer to receive the records in that format. However, if certain records are not available in that format, we are willing to accept the best available copy of each such record.

³ Paulina Gonzalez-Brito, BankThink: Why is OCC scared of public input?, Am. Banker (April 08, 2019), <https://www.americanbanker.com/opinion/why-is-occ-scared-of-public-input>.

⁴ Barry Wides, BankThink: Setting the record straight on CRA reform, Am. Banker (March 25, 2019), <https://www.americanbanker.com/opinion/setting-the-record-straight-on-cra-reform>.

Please respond to this request in writing within 20 working days as required under 5 U.S.C. § 552(a)(6)(A)(i). If all of the requested documents are not available within that time period, we request that you provide us with all requested documents or portions of documents that are available within that time period. If all relevant records are not produced within that time period, we are entitled to a waiver of fees for searching and duplicating records under 5 U.S.C. § 552(a)(4)(A)(viii)(I).

Request for Fee Waiver

Pursuant to 5 U.S.C. § 552(a)(4)(A)(iii), 12 C.F.R. § 4.17, and 31 C.F.R. § 1.7, Democracy Forward Foundation (DFF) and California Reinvestment Coalition (CRC) request a waiver of all fees associated with processing records for this request. FOIA requires documents to be furnished to requesters at no fee or reduced fees when “if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A); *see also* 12 C.F.R. § 4.17(4), 31 C.F.R. § 1.7(k)(1).

The disclosure of records sought by this Request is likely to contribute significantly to the public understanding of the operations or activities of the government.

The OCC has begun the process of taking public comment on revised regulations under the Community Reinvestment Act (CRA). The CRA is a crucial fair lending law designed to combat redlining and encourage financial institutions to meet the credit needs of their communities. In September 2018, the OCC published an Advanced Notice of Proposed Rulemaking to take comment on a new CRA regulatory framework.⁵ The ANPRM received over 1,500 public comments in response. The OCC’s behavior toward commenters, particularly from community groups, has raised significant flags. In January and March 2019 respectively, the OCC Deputy Comptroller for Community Affairs Barry Wides sent a letter to CRC expressing offense at its advocacy around the CRA and published an article that took the unusual step of criticizing commenters that in his view “have not contributed positively to the public discussion” and “opted to distort facts by inaccurately portraying the purpose and content of the ANPR.”⁶ And the following October, Wides again sent a letter to the California Reinvestment Coalition asking CRC to alter its stance on the ANPRM.⁷ This request seeks more information about OCC’s views of community groups like California Reinvestment Coalition, how it decided to take these unusual steps, and whether there are other irregularities in the ANPRM comment process.⁸ The

⁵ Advanced Notice of Proposed Rulemaking, Reforming Community Reinvestment Act Regulatory Framework, OCC (Sept. 5, 2018), <https://www.regulations.gov/document?D=OCC-2018-0008-0001>.

⁶ Letter from Barry Wides, Deputy Comptroller, OCC, to Paulina Gonzalex-Brito, Executive Director, CRC (January 9, 2019), <http://calreinvest.org/wp-content/uploads/2019/03/Wides-Letter-to-CRC.pdf>; Barry Wides, BankThink: Setting the record straight on CRA reform, Am. Banker (March 25, 2019), <https://www.americanbanker.com/opinion/setting-the-record-straight-on-cra-reform>.

⁷ @CalReinvest, Twitter (Oct. 2, 2019), <https://twitter.com/CalReinvest/status/1179491967308185600?s=20>.

⁸ Cf. David Dayen, *The Fake Public Comments Supporting a Bank Merger are Coming from Inside the House*, The Intercept (Sept. 29, 2018), <https://theintercept.com/2018/09/29/joseph-otting-occ-onewest-bank-merger-cit/> (documenting “fake” public comments in a previous OCC notice-and-comment process).

requested records will therefore have a connection that is “direct and clear” to operations or activities of the Federal Government, and because these records will shed new light on this important topic, they also will be “meaningfully informative” about government operations or activities. 31 C.F.R. § 1.7(k)(2).

Democracy Forward Foundation and California Reinvestment Coalition are able to, and regularly do, disseminate Records obtained through FOIA requests to a broad audience of persons interested in the subject matter.

In determining whether a fee waiver is appropriate, courts consider whether a requester has a “demonstrated . . . ability to disseminate the requested information,” *Cause of Action v. F.T.C.*, 799 F.3d 1108, 1116-17 (D.C. Cir. 2015), and whether the requester regularly disseminates records obtained through FOIA to “a reasonably broad audience of persons interested in the subject” of its work. *Carney v. U.S. Dep’t of Justice*, 19 F.3d 807, 814-15 (2d Cir. 1994). FOIA does not require a requester to describe exactly how it intends to disseminate the information requested, as that would require “pointless specificity”; all that is necessary is for a requester to adequately demonstrate its “ability to publicize disclosed information.” *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1314 (D.C. Cir. 2003). In evaluating a fee waiver request, courts consider how a requester actually communicates information collected through FOIA to the public, including press releases or a website where documents received are made available, *see id.*, or whether the requester has a history of “contacts with any major news[] companies” that suggest an ability to disseminate materials of interest through the press. *Larson v. C.I.A.*, 843 F.2d 1481, 1483 (D.C. Cir. 1988) (upholding a denial of a fee waiver to a requester who had failed to identify his relationships with newspaper companies that could disseminate documents).

DFF has a demonstrated ability to disseminate information of public interest requested through FOIA, and intends to publicize records DFF receives that contribute significantly to the public’s understanding of the operations of government.

DFF operates a dedicated communications staff with deep relations with a wide variety of national publications. When DFF obtains materials through FOIA requests that are of significant public interest, DFF’s communications staff regularly works to ensure that these materials and their contents are featured in press articles educating the public about the operation of government; many articles feature additional commentary and analysis from DFF staff about those materials and their relevance to policy issues of public interest.⁹

⁹ See, e.g., Alexander Nazaryan, *Why did right-wing troll Charles C. Johnson meet with Commerce Secretary Wilbur Ross?*, Yahoo News (May 14, 2019), <https://news.yahoo.com/why-did-rightwing-troll-charles-c-johnson-want-to-meet-with-commerce-secretary-wilbur-ross-090000636.html>; Derek Kravitz and Jack Gillum, “Happy to Do It”: *Emails Show Current FAA Chief Coordinated With Ex-Lobbyist Colleagues on Policy*, ProPublica (Mar. 27, 2019), <https://www.propublica.org/article/dan-elwell-current-faa-chief-coordinated-with-ex-lobbyist-colleagues-on-policy>; Hamid Aleaziz, *Emails Show US Border Officials Didn’t Receive “Zero Tolerance” Guidance Until After the Policy Was Enacted*, Buzzfeed News (Feb. 28, 2019), <https://www.buzzfeednews.com/article/hamedaleaziz/zero-tolerance-policy-guidance-dhs-family-separation>; Jonathan Cohn and Jeffrey Young, *Emails Show Trump Administration Was Told Obamacare Ad Cuts Could Hurt Enrollment*, Huffpost (Dec. 17, 2018), https://www.huffingtonpost.com/entry/trump-verma-obamacare-advertising-cut_us_5c115061e4b084b082ff8dba; Madison Pauly, *When the Biggest Prison Company Complained About a California Sanctuary Law, ICE Listened*, Mother Jones (Dec. 7, 2018), <https://www.motherjones.com/politics/2018/12/geo-memo-private-prison-california-immigration/>; Eliza Rellman,

Additionally, DFF regularly sends press releases and other materials to over 6,000 members of the press and the over 7,000 members on our organization's email list, discussing ongoing legal developments related to executive branch policymaking. These materials often include descriptions and analysis of information obtained by DFF through its FOIA requests.¹⁰ In

'Just answer the question and kill this story': In internal emails, Heather Nauert criticized Rex Tillerson's refusal to deny reports that he called Trump a 'moron,' Business Insider (Nov. 2, 2018), <https://www.businessinsider.com/heather-nauert-rex-tillerson-trump-moron-2018-11>; Rebecca Klein, *Lawsuit Accuses Betsy DeVos And Her Deputies Of Being Motivated By Sexism*, HuffPost (Oct. 31, 2018), https://m.huffpost.com/us/entry/us_5bd9ff6ee4b01abe6a1ad4a9; Nick Penzenstadler, *A year after Vegas shooting, ATF emails reveal blame, alarm over bump stocks*, USA Today (Oct. 1, 2018), <https://www.usatoday.com/story/news/2018/10/01/year-after-vegas-shooting-atf-emails-reveal-blame-alarm-over-bump-stocks/1432137002/>; Jessica Kwong, *Ivanka Trump was more than complicit in Obama equal pay rollback—she had a hand in it, watchdog alleges*, Newsweek (Aug. 29, 2018), <https://www.newsweek.com/ivanka-trump-equal-pay-complicit-obama-1093833>; Vera Bergengruen, *New Emails Show What Happens When The Pentagon Has To Scramble To Catch Up To Trump*, BuzzFeed News (July 25, 2018), <https://www.buzzfeednews.com/article/verabergengruen/these-emails-show-what-happens-when-the-white-house-keeps>; Erin Dooley, *Exclusive: Former for-profit college executive shaped Education Department policy that could benefit former employers: Documents*, ABC News (May 15, 2017), <https://abcnews.go.com/US/exclusive-profit-college-executive-shaped-education-department-policy/story?id=55108981>; Heidi Przybyla, *Notes, emails reveal Trump appointees' war to end HHS teen pregnancy program*, NBC News (Mar. 20, 2018), <https://www.nbcnews.com/politics/politics-news/notes-emails-reveal-trump-appointees-war-end-hhs-teen-pregnancy-n857686>; Dominic Holden, *Documents Show The Trump Administration Approved Bump Stocks Before It Opposed Them*, BuzzFeed News (Mar. 22, 2018), <https://www.buzzfeednews.com/article/dominicholden/trump-administration-bump-stocks>; Bernard Condon, *Trump Advisor Denies He Cheered End of Tunnel Funding Deal*, Associated Press (Feb. 13, 2018), available at <https://www.usnews.com/news/business/articles/2018-02-13/trump-adviser-denies-he-cheered-end-of-tunnel-funding-deal>; Celeste Katz, *Interior Department tapped wildfire preparedness funds for Ryan Zinke helicopter tour*, Newsweek (Dec. 29, 2017), <https://www.newsweek.com/ryan-zinke-interior-department-helicopters-wildfires-757857>.

¹⁰ See, e.g., *BREAKING: At Congressional Hearing, Sec. DeVos Confronted With Records Revealing Trump Administration's Unlawful Decision to Permit Federal Funds to Arm Teachers* (Apr. 10, 2019), <https://democracyforward.org/press/breaking-at-congressional-hearing-sec-devos-confronted-with-records-revealing-trump-administrations-unlawful-decision-to-permit-federal-funds-to-arm-teachers/>; *BREAKING: New Evidence Reinforces Claim Trump's Title IX Policy Was Based on Sexist Stereotypes, Rendering it Unconstitutional* (Nov. 1, 2018), <https://democracyforward.org/press/breaking-new-evidence-reinforces-claim-trumps-title-ix-policy-was-based-on-sexist-stereotypes-rendering-it-unconstitutional/>; *On 1-Year Anniversary of Equal Pay Roll Back, New Documents Reveal Ivanka Trump's Role in Trump Administration Decision to Roll Back Protections for Women and Working Families* (Aug. 29, 2018), <https://democracyforward.org/press/on-1-year-anniversary-of-equal-pay-roll-back-new-documents-reveal-ivanka-trumps-role-in-trump-administration-decision-to-roll-back-protections-for-women-and-working-families/>; *Democracy Forward Demands Ethics Investigation into White House Official's Role in Developing Special Drug Pricing Project With Novartis* (July 11, 2018), <https://democracyforward.org/press/democracy-forward-demands-ethics-investigation-into-white-house-officials-role-in-developing-special-drug-pricing-project-with-novartis/>; *BREAKING: New Records Reveal DeVos Senior Advisor And Former For-Profit College Executive Directed Rollback of Protections Against Predatory Student Loans* (May 15, 2018), <https://democracyforward.org/press/breaking-new-records-reveal-devos-senior-advisor-former-profit-college-executive-directed-rollback-protections-predatory-student-loans/>; *BREAKING: New Records Suggest Trump-Appointed Political Officials Drove HHS Decision To End Program Grants That Have Helped Reduce Teen Pregnancy Rates To All-Time Low* (Mar. 20, 2018), <https://democracyforward.org/press/breaking-new-records-suggest-trump-appointed-political-officials-drove-hhs-decision-end-program-grants-helped-reduce-teen-pregnancy-rates-time-low/>.

addition, DFF operates a verified Twitter account with over 6,000 followers, and frequently uses the account to circulate significant documents received through FOIA requests.¹¹

DFF's website also houses a great deal of information obtained through its FOIA requests, accessible to the public at no cost. DFF's website logged over 187,000 pageviews in 2018 alone.

DFF frequently incorporates documents received through FOIA into related legal actions brought by DFF on behalf of its clients, and in doing so further publicizes documents received by explaining their legal significance.¹²

Similarly, CRC frequently submits FOIA requests to enhance the public's understanding of the actions of financial regulatory agencies.¹³ It publicizes the government's responses to its requests in its newsletter and on its website. CRC also use this information to further enhance public discourse through comments and communications to various administrative agencies, and through its media work to educate the public, regulatory agencies and policymakers about the plight of vulnerable residents and communities and the need for regulators and legislators to more closely scrutinize financial institution practices.¹⁴

Democracy Forward Foundation and California Reinvestment Coalition are purely noncommercial requesters.

¹¹ See, e.g., the following tweets and tweet threads from @DemocracyFwd: <https://twitter.com/DemocracyFwd/status/910123899035226112> (Sep. 19, 2017); <https://twitter.com/DemocracyFwd/status/976991060680462336> (Mar. 22, 2018); <https://twitter.com/DemocracyFwd/status/996480908877271042> (May 15, 2018); <https://twitter.com/DemocracyFwd/status/998986714105483264> (May 22, 2018); <https://twitter.com/DemocracyFwd/status/1022870550769754112> (July 27, 2018); <https://twitter.com/DemocracyFwd/status/1035144352345903105> (Aug. 30, 2018); <https://twitter.com/DemocracyFwd/status/1053294640382779392> (Oct. 19, 2018); <https://twitter.com/DemocracyFwd/status/1071105652867690496> (Dec. 7, 2018).

¹² See, e.g., Second Amended Complaint for Injunctive Relief at 31, *SurvJustice, Inc., et al. v. DeVos et al.*, No. 3:18-cv-00535-JSC (N.D. Cal. Oct. 31, 2018), ECF No. 86, reported on in Klein, *supra* n. 4; Memorandum of Law in Support of Plaintiffs' Motion for Preliminary and Permanent Injunction at 14-15, *Healthy Teen Network and Mayor and City Council of Baltimore v. Azar and U.S. Dep't of Health and Human Services*, No. 1:18-cv-00468-CCB (D. Md. Mar. 27, 2018), ECF No. 18-1, reported on in Przybyla, *supra* n. 4.

¹³ See, e.g., *Federal Reverse Mortgage Program Results In Widows Losing Their Homes After Death Of Spouse* (March 12, 2018), <http://calreinvest.org/press-release/federal-reverse-mortgage-program-results-in-widows-losing-their-homes-after-death-of-spouse-2/>; *Fact Sheet: CIT Group's Financial Freedom is Responsible for nearly 40% of HECM Reverse Mortgage Foreclosures*, <http://calreinvest.org/wp-content/uploads/2018/08/CRC20Fact20Sheet20about20Financial20Freedom20Foreclosures20Since20April202009.pdf>; *Fact Sheet: OneWest Bank Expected to Receive Over \$2.4 billion from the FDIC*, <http://calreinvest.org/wp-content/uploads/2018/08/CRC-FDIC-Loss-Share-Fact-Sheet.pdf>.

¹⁴ See, e.g., David Dayen, *The Fake Public Comments Supporting a Bank Merger are Coming from Inside the House*, *The Intercept* (Sept. 29, 2018), <https://theintercept.com/2018/09/29/joseph-otting-occ-onewest-bank-merger-cit/>; David Wharton, *HUD Addresses Concerns About Reverse Mortgage Foreclosures*, *DS News* (March 14, 2018), <https://dsnews.com/daily-dose/03-14-2018/hud-addresses-concerns-reverse-mortgage-foreclosures>; Matthew Goldstein and Alexandra Stevenson, *Trump's Treasury Pick Moves in Secretive Hedge Fund Circles*, *NYT* (Dec. 19, 2016), <https://www.nytimes.com/2016/12/19/business/dealbook/steven-mnuchin-trump-treasury-hedge-funds.html>.

Neither Democracy Forward Foundation nor California Reinvestment Coalition are filing this request to further a commercial interest, and any information disclosed by DFF or CRC as a result of this FOIA request will be disclosed at no cost. A fee waiver would fulfill Congress's legislative intent in amending FOIA. *See Judicial Watch*, 326 F.3d at 1312 ("Congress amended FOIA to ensure that it be liberally construed in favor of waivers for noncommercial requesters." (quotation marks omitted)).

Democracy Forward is a representative of the news media.

A representative of the news media is one that "publishes or otherwise disseminates information to the public," and in particular one that "gathers information from a variety of sources; exercises a significant degree of editorial discretion in deciding what documents to use and how to organize them; devises indices and finding aids; and distributes the resulting work to the public." *Nat'l Sec. Archive v. US Dep't of Defense*, 880 F.2d 1381, 1387 (D.C. Cir. 1989). Representatives of the news media qualify for a waiver of all fees except "reasonable standard charges for document duplication" as a representative of the news media pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II).

As documented above, DFF extensively disseminates information gathered through FOIA requests to the public, via sharing that information with other news outlets, publishing and sending press releases and other updates to our website and email list, and alerting our followers on social media to new developments in our work, including highlights from documents obtained through FOIA. This process entails a great degree of editorial discretion in deciding which documents to highlight and how to organize them for the public, as our team of lawyers and policy experts carefully examine and build a thorough understanding of the documents we receive from FOIA and their relationship to policies of interest to the public.

Beyond disseminating information to reporters for them to publish, and sharing press releases and updates, Democracy Forward has also sought to disseminate information directly to the public through reports and opinion pieces written by our staff.¹⁵

¹⁵ *See, e.g., A Blueprint for Cronyism: President Trump's Illegal Infrastructure Plan to Enrich His Friends*, Democracy Forward Foundation (Jan. 30, 2018), <https://democracyforward.org/wp-content/uploads/2018/01/Infrastructure-Report.pdf>; Elana Schor, *Trump critics seize on developer ties to infrastructure plan*, Politico (Jan. 30, 2018), <https://www.politico.com/story/2018/01/30/trump-infrastructure-developers-state-of-union-376326> (press coverage of DFF's report on White House infrastructure policy); *Airlines and the Trump Administration*, Democracy Forward Foundation (Jan. 11, 2018), <https://democracyforward.org/updates/airlines-and-the-trump-administration/>; Bart Jansen, *Lost bags, airline fees: Protections for travelers rights stall under Trump*, USA Today (Jan. 19, 2018), <https://www.usatoday.com/story/news/2018/01/19/lost-bags-airline-fees-protections-travelers-rights-stall-under-trump/1043879001/> (press coverage utilizing the information DFF organized regarding regulatory changes); *What Has Trump Done on Guns? A Lot.*, Democracy Forward Foundation (Feb. 21, 2018), <https://democracyforward.org/updates/trump-done-guns-lot/>; Christi Parsons, *Trump 'supportive' of tougher gun law, but his record suggests that may not mean much*, LA Times (Feb. 20, 2018) (press coverage utilizing the information DFF organized regarding regulatory changes); Anne Harkavy and Farhana Khera, *When the Trump administration lies, it might literally be illegal: Learn about the Information Quality Act*, NY Daily News (Feb. 14, 2019), <https://www.nydailynews.com/opinion/ny-oped-when-the-trump-administration-lies-it-might-literally-be-illegal-20190213-story.html> (piece co-authored by DFF executive director); Meg Uzzell and Rachael Klarman, *Why These Women Are Suing Trump to Help End the Gender Pay Gap*, Teen Vogue (Nov. 28, 2017),

California Reinvestment Coalition is an “other requester.”

CRC is a nonprofit institution advocating for fair and equal access to banking and other financial services for low-income and communities of color. CRC is a 501(c)(3) non-profit corporation and accordingly falls under the “all other requesters” category. 12 C.F.R. § 4.17(b)(2)(iii).

For all the foregoing reasons, Democracy Forward Foundation and California Reinvestment Coalition qualify for a fee waiver.

Conclusion

If you need clarification as to the scope of the request, have any questions, or foresee any obstacles to releasing fully the requested records within the 20-day period, please contact Democracy Forward as soon as possible at foia@democracyforward.org.

We appreciate your assistance and look forward to your prompt response.

Sincerely,

Nitin Shah

Democracy Forward Foundation

Kevin Stein

California Reinvestment Coalition

<https://www.teenvogue.com/story/women-sue-trump-gender-pay-gap> (piece authored by two members of DFF’s staff).