February 14, 2022

VIA ELECTRONIC FILING

Chief Counsel's Office, Comment Processing
Office of the Comptroller of the Currency
400 7th St. SW, Suite 3E-218
Washington, DC 20219

RE: OCC Principles for Climate-Related Financial Risk Management for Large Banks
Attention: Docket ID OCC-2021-0023-0001

To whom it may concern,

The 22 undersigned organizations welcome the opportunity to comment on the Office of the Comptroller of the Currency's (OCC's) Principles for Climate-Related Financial Risk Management for Large Banks. We support this important step toward addressing climate risk in the banking system, and many of our organizations have also written in other comments to support strengthening the draft principles with respect to tailoring for banks of all sizes, ensuring robust climate scenario analysis, and aligning banks' climate commitments with their internal strategies and governance.

We write specifically here to urge the OCC to carefully consider the potential impacts of climate supervisory guidance on racial, economic, environmental, and climate justice, and how these expectations will interact with fair lending principles and regulation and consumer financial protections. Prudential climate financial regulation is vital, and it must not result in additional burdens on vulnerable communities and households, the very consumers who are most at risk from climate impacts.

To this end, it is critical that the OCC expand its climate risk guidance to all banks in a way that recognizes the important role credit and banking services should play in helping vulnerable communities in building resilience to climate disasters. Such guidance should include how banks can and should maintain the operational resilience of the critical services they provide. It should also encourage both large and small banks to support community investment in adaptation instead of withdrawing credit, to finance green investment, and to protect consumers from unsafe "green" financial products that lack adequate consumer protections and/or do not deliver purported climate benefits.

LMI communities, communities of color, and the banks that serve them are more vulnerable to physical risks from climate impacts.

Decades of racist housing, lending, and siting policies–many created and perpetuated by the federal government itself–that denied households and communities of color equitable access to financial services have resulted in massive racial and economic disparities in wealth, climate vulnerability, environmental justice, and public health. These policies have segregated people of color and lower income households into neighborhoods that face not only higher levels of toxic pollution (e.g., from fossil fuel infrastructure) but also far greater physical vulnerability to climate impacts like flooding[1] and extreme heat[2] that harm infrastructure, public health, and local economies. In particular, EPA finds in an analysis of "socially vulnerable groups" that people of color are most likely to live in areas that will face the worst climate impacts. Black individuals are 40 percent more likely to live in areas with the highest projected increases in mortality rates due to climate-driven changes in extreme temperatures. Hispanic and Latino individuals are 43 percent more likely to live in areas with the highest projected labor hour losses in weather-exposed industries. American Indian and Alaska Native individuals are 48 percent more likely to live in areas where the highest percentage of land is projected to be inundated due to sea level rise.[3]

The connection between redlining and climate vulnerability is clear; they co-exist in a feedback loop that further entrenches racial and economic inequality. In recent years, climate impacts–especially in underserved communities–are leading to ever-increasing annual direct damages,[4] disruption to local economies based on agriculture, tourism, and energy,[5] and sometimes ultimately emigration[6] and loss of tax base,[7] effectively bankrupting small towns across the country[8] and destabilizing local financial institutions.[9] Underserved communities tend to be both the most exposed to these damages and least able to access the federal aid resources to recover financially.[10]

In 2020, the National Advisory Council to FEMA troublingly found that "Many FEMA programs do not consider the principle of equity in financial assistance relief…Through the entire disaster cycle, communities that have been underserved stay underserved, and thereby suffer needlessly and unjustly." In fact, research has shown that "holding disaster costs constant, the more [FEMA] money a county receives, the more whites' wealth tends to grow, and the more

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[1] See E.g., Redfin News, "A Racist Past, a Flooded Future: Formerly Redlined Areas Have $107 Billion Worth of Homes Facing High Flood Risk–25% More Than Non-Redlined Areas," 2021. https://www.redfin.com/news/redlining-flood-risk/

[2] Hoffman *et al.*, "The Effects of Historical Housing Policies on Resident Exposure to Intra-Urban Heat: A Study of 108 US Urban Areas," 2020. https://www.mdpi.com/2225-1154/8/1/12/htm

[3] EPA, "Climate Change and Social Vulnerability in the United States," September 2021. https://www.epa.gov/system/files/documents/2021-09/climate-vulnerability_september-2021_508.pdf

[4] NOAA, "Billion-Dollar Weather and Climate Disasters," 2022. https://www.ncdc.noaa.gov/billions/

[5] U.S. Global Change Research Program, "Fourth National Climate Assessment -Volume II: Impacts, Risks, and Adaptation in the United States," 2018. https://nca2018.globalchange.gov

[6] The NYTimes and ProPublica, "The Great Climate Migration," 2020. https://www.nytimes.com/interactive/2020/07/23/magazine/climate-migration.html

[7] Organisation for Economic Co-operation and Development (OECD), "Climate Change and Long Term Fiscal Sustainability," 2021. https://www.oecd.org/gov/budgeting/scoping-paper-on-fiscal-sustainability-and-climate-change.pdf

[8] The NYTimes, "Climate Change is Bankrupting America's Small Towns," September 2021. https://www.nytimes.com/2021/09/02/climate/climate-towns-bankruptcy.html

[9] The Wall Street Journal, "Banks Take a Hit from Hurricanes Katrina, Rita," 2005. https://www.wsj.com/articles/SB112993899645076384

[10] Urban Institute, "Improving Disaster Recovery of Low-Income Families." https://www.urban.org/debates/improving-disaster-recovery-low-income-families

blacks' wealth tends to decline, all else equal. In other words, how federal assistance is currently administered seems to be exacerbating rather than ameliorating wealth inequalities that unfold after costly natural hazards."[11]

As the stability of local banks is deeply linked to the economic fortunes of the communities and households that they serve, institutions that provide vital access to financial services for underserved communities face particular challenges due to climate change. Bank supervisors must be on the lookout not only for systemic risks that affect the largest banks, but subsystemic safety and soundness issues that will affect certain geographies, sectors, and bank business models with elevated climate risk, as well as the risk that bank failures may pose to consumers through banking consolidation. Further, banks are chartered to serve the convenience and needs of their communities, so not only is their financial stability dependent on the economic stability of those communities, banks should be a driving force in ensuring that stability for all members of those communities.

Supervision must encourage banks to enhance operational resilience and expand physical access to banking in LMI communities and communities of color.

The OCC should use supervision to ensure that banks remain operationally resilient in the face of climate-related disasters and that they offer financial services to underserved communities on an equitable basis. OCC should extend and tailor their supervisory guidance to smaller institutions. 80% of institutions supervised by the OCC are smaller banks and federal savings associations,[12] many of which are regional, community, and agricultural banks. Some are more vulnerable to climate risk than larger banks due to the financial needs they meet and their more limited geographic range and product offerings, and they are also critically important for the financial health of rural and underserved communities.

Banks must be prepared for increasingly common and severe disruptions due to climate-related disasters–such as wildfires or hurricanes–and chronic stressors like persistent flooding and extreme heat. Preparations should extend to electrical power, communications systems, and physical resilience of branches, servers, offices, and ATMs. Branch closings in increasingly climate vulnerable areas may be avoidable by investing in operational resilience. The OCC should work in particular with smaller banks to disseminate policies and procedures that have worked to maintain resilience during previous disasters and encourage their implementation.

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[11] FEMA National Advisory Council, "National Advisory Council Report to the FEMA Administrator," November 2020. https://www.fema.gov/sites/default/files/documents/fema_nac-report_11-2020.pdf; Howell and Elliott, "As Disaster Costs Rise, So Does Inequality," *Socius,* 4 Dec 2018. https://journals.sagepub.com/doi/full/10.1177/2378023118816795

[12] OCC, "Community Banks." https://www.occ.gov/topics/supervision-and-examination/bank-management/community-banks/index-community-banks.html

Risk mitigation measures that rely on avoiding or raising rates in climate vulnerable areas will have disparate impacts on LMI communities and communities of color.

In an effort to remain safe and sound, it is critical that larger, more diversified banks do not retreat from climate vulnerable communities, but instead find ways to promote climate resilience for their customers and communities. "Bluelining" is a developing practice where financial institutions identify areas as having higher environmental risk and avoid offering loans and banking services, or raise costs in those areas.[13] Seemingly risk-based analysis will recreate the same boundaries as previous redlining decisions that create and perpetuate racial and economic inequality. Such practices are particularly harmful to underserved communities that often lack ready access to credit at fair rates to rebuild.

The OCC draft principles contain only a brief mention of the potential fair lending risk that may be associated with these harmful mitigation practices under the category of legal/compliance risk. To avoid disparate impacts of the guidance, OCC must place greater emphasis on fair lending risk–it should be an essential component of all aspects of the climate risk management that banks do–especially given the troubling history of discriminatory policies and practices that have led to climate vulnerability for underserved communities. As part of the guidance, OCC should provide examples of climate risk mitigation strategies that pose potential fair lending risk exposure for banks.

Further, OCC should collect data to determine how prevalent climate-induced curtailing of financial services has become for LMI communities and communities of color. As part of this guidance, it should also require that banks identify, measure, monitor, and address potential and occurring disproportionate impacts on communities of color and LMI communities. Banks should have a system for tracking their actions to avoid or address disproportionate impacts and documenting their progress on addressing those impacts.

OCC should also provide clear supervisory expectations and work with banks to manage climate-related risks in ways that do not create disparate impact on underserved communities. There are methods available that serve the same purpose without discriminatory effect. For instance, the OCC could encourage banks to invest more in other resilience measures, such as divesting from assets exposed to a high degree of transition risk, or provide more low-cost funding for climate adaptation measures in vulnerable communities.

The OCC should work also with other government agencies to examine banks' needs and other federal climate and disaster resilience resources to deal with climate risk that can be deployed to lessen climate vulnerability and deter banks retreating from the communities and households that most need access to financial services to prepare for and recover from climate-related disasters. Special attention and resources should be provided to small CDFIs with strong track records of serving underserved communities, MDIs, and institutions that cannot easily diversify.

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[13] Abraham Lustgarten, "How the Climate Crisis Will Shape Migration in America," The NYTimes, 15 Sept 2021.

The OCC should encourage safe and fair lending strategies to improve the climate resilience of communities and households they serve, and discourage predatory products marketed with a "green" label.

Acceptable climate-risk mitigation can include lending strategies that promote climate resilience, including the development of climate resilient affordable housing, schools, and businesses; clean electricity projects and microgrids; nature-based protective infrastructure ("green infrastructure"); building decarbonization, which includes holistic home weatherization and health interventions; electric public transit and electric vehicle charging infrastructure; and lending to green small businesses and corporations with legitimate decarbonization transition strategies. For smaller community-based banks, investments in weatherization and climate resilience for local businesses can improve the financial health of the community and promote safety and soundness. Climate-risk mitigation measures generally should be developed in a way that ensures accessibility and affordability in LMI communities and communities of color.

Unfortunately, many community banks have noted that the novelty of these climate-resilient asset classes creates regulatory uncertainty, chilling lending. The OCC should prioritize providing guidance on green lending for underserved communities, which will help small banks deploy capital in socially productive ways. To do this, the OCC can survey what has worked for smaller banks, or even green banks, who have successfully underwritten such loans, and transmit the specific policies and procedures that could be put in place to underwrite green loans in novel markets. Such guidance will provide confidence to smaller banks in moving forward on these kinds of loans.

At the same time, the guidance should recognize where "green" financial products have not been good for consumers, and steer banks away from those products. For example, residential Property Assessed Clean Energy (PACE) loans offer the dubious promise of electricity bill savings through energy efficiency or renewable energy upgrades, but most programs do not fully asses the borrower's ability to repay, and the borrower's home serves as collateral for PACE financing and payments are collected through the local property tax system. Failure to pay can leave the homeowner vulnerable to tax foreclosure. And as with the subprime lending abuses that led to the recent financial crisis, residential PACE loans frequently target the most economically vulnerable borrowers–low-income families, the elderly, and borrowers of color–many of whom may be eligible for grants or low cost loans to address energy efficiency and for whom PACE loans may be an unaffordable and risky product. Residential PACE lending has become an urgent problem in low-income communities and communities of color where the product is actively sold using aggressive sales tactics and homeowners are often pressured to sign up without an actual assessment of home needs or suitability. The OCC must caution banks away from propagating this product, as well as others like it.

The OCC should also ensure that any novel approaches to housing finance intended to promote energy efficiency retrofits and upgrades do not feature the unintended consequence of overpromising savings and, as a result, place consumers in loans they cannot afford or loans that are not justified by the subsequent energy savings.

We thank the OCC for moving forward with supervisory guidance to mitigate climate risk within the banking system, and we urge your consideration of fair lending implications and incorporation of appropriate equity safeguards within the supervision and examination process. For more information please contact Alex Martin (alex@ourfinancialsecurity.org).

Sincerely,

Action Center on Race and the Economy

Americans for Financial Reform Education Fund

California Reinvestment Coalition

Center for International and Environmental Law

Center for Community Self-Help

Consumer Action

Consumer Federation of America

Institute for Agriculture and Trade Policy

Integrated Community Solutions, Inc

Interfaith Center on Corporate Responsibility

League of Conservation Voters

MICAH - Metropolitan Interfaith Council on Affordable Housing

Mountain State Justice

National Coalition For The Homeless

National Community Reinvestment Coalition

National Consumer Law Center (on behalf of its low-income clients)

National Fair Housing Alliance

Our Spring Lake Store LLC

Public Citizen

Revolving Door Project

The Climate Finance Fund

The Greenlining Institute