NCRC
National Community Reinvestment Coalition

February 4, 2022

RE: NCRC Comment Letter on Figure Bank's Charter Application

To Whom it May Concern:

The National Community Reinvestment Coalition (NCRC) and 36 community organizations co-signing this letter maintain that Figure Bank's application for a charter has not demonstrated a significant commitment to meeting the convenience and needs of the community to be served as required per the Office of the Comptroller of the Currency's (OCC's) licensing manual.[1] Despite its national platform for making loans, Figure Bank proposes that its CRA responsibilities will only involve its headquarters area of the Reno metropolitan area.[2] Its CRA plan also does not describe how its retail lending activities will serve low- and moderate-income (LMI) borrowers or communities, despite being the fourth largest home equity lender in the country and soon to be entering home purchase and refinance lending.[3]

In addition, the application does not describe whether the products are consistent with safety and soundness, which is the statutory mandate of CRA. In order to be safe and sound, Figure's student loans, consumer loans and home loans must be affordable and sustainable for borrowers.[4] The loan products must not be marketed in a deceptive and abusive manner designed to trick borrowers into accepting initially low rates that then rapidly adjust upwards. Figure Bank's application is silent about these core issues of honesty, transparency and sustainability of its products. Figure's application is also silent about fair lending issues despite racial disparities in loan pricing as described below.

Figure Lending LLC also has HMDA reporting irregularities that must be investigated by the OCC and the Consumer Financial Protection Bureau (CFPB). It reported a total absence of terms like interest-only payments or adjustable rates which are common in Home Equity Line of Credit (HELOC) lending.

Receiving a bank charter is a privilege, not a right. Online lenders have proliferated, exploiting unproven marketing and underwriting approaches that raise significant questions regarding disparate impact, abusive lending practices and safety and soundness. Figure Lending LLC is one of these online lenders that still must prove that it is responsible and inclusive. Its application

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[1] Comptroller's Licensing Manual, Charters, September 2016, p. 96, https://www.occ.gov/publications/publications-by-type/licensing-manuals/charters.pdf,

[2] Figure Bank, NA, Addendum Redaction Draft, Bank Charter Amendment, December 2021, p. 42, available via the OCC electronic FOIA reading room.

[3] See Figure's LLC website for a list of their products, https://www.figure.com/?gclid=EAIaIQobChMI1JDshJqy9QIVSsiUCR16RgLmEAAYASAAEgKN_fD_BwE&gclsrc=aw.ds

[4] Figure Bank, NA application, November 2020, available via the OCC electronic FOIA reading room, the lender refinances student loans, p. 4.

falls short of requisite assurances of a public benefit. Moreover, its CRA plan is cursory and does not have specific and measurable goals necessary for the public to weigh its adequacy.

Figure Lending LLC is a major lender, boasting that it is the fourth largest Home Equity Line of Credit (HELOC) lender in the country.[5] As such, it owes the public a comprehensive application and CRA plan that provides detail about robust compliance with CRA and fair lending laws. It must describe how it will marshal its resources for the benefit of modest income neighborhoods and communities of color recovering from the COVID pandemic. The application in its present form does not offer a CRA and fair lending commitment commensurate with Figure Bank's size and market presence.

NCRC believes that Figure Bank must consider the following as minimal requirements for an online lender applicant creating a rigorous CRA and fair lending plan. Such a plan must be comprehensive, qualities missing in Figure Bank's proposed plan:

Assessment Areas Cannot Be Narrow but Must Include Areas Where a Substantial Amount of Business is Conducted

Figure Bank's application established the Reno, Nevada metropolitan area as the assessment area for Figure Bank because the bank's headquarters is located in that metropolitan area. This narrow assessment area is not truly responding to credit and deposit needs where Figure Bank is conducting business. Figure Bank engages in lending and other business nationally. Its assessment area will thus fall short of meeting the convenience and needs requirement for a charter application. Figure Bank adopted the part of the CRA regulatory definition of assessment area that relies on a banking model in which branches gather deposits. This definition does not apply to Figure Bank so the lender must utilize another part of the regulatory definition of assessment areas that allows assessment areas to be designated in areas beyond branches where substantial lending and business activity occurs.[6]

Figure Bank stated in its addendum letter that, "the Bank will maintain a CRA Strategic Plan ("Plan") due to its nationwide customer acquisition model, with lending and deposits primarily outside of its assessment area."[7] In other words, its choice of a strategic plan would allow the de novo bank to dodge its CRA responsibilities outside of the Reno area where most of its lending and deposit-taking would occur. This type of application must no longer be acceptable to the federal bank regulatory agencies. Last year, the Federal Reserve Board in its Advanced Notice of Proposed Rulemaking (ANPR) proposed that lending-based assessment areas be established

[5] Figure Bank, NA application, November 2020, p. 24, available via the OCC electronic FOIA reading room.
[6] §25.41(c)(2) Assessment area delineation, https://www.ffiec.gov/cra/regulation.htm
[7] Figure Bank, Addendum Letter with Redactions, December 2021, p. 42.

wherever a bank made 100 or more loans.[8] Along the lines of this proposal, applicants for a bank charter in this interregnum period before a new CRA regulation must adhere to the intent of this reform proposal. The Federal Reserve's proposal signals that it is no longer acceptable to avoid CRA evaluations for most of a bank's activity in most of its geographic footprint.

NCRC analyzed Figure LLC's 2020 open end lending and found the following distribution of loans across the states:

Rank	State	HELOCS	Rank	State	HELOCs
1	CA	1,693	20	MO	164
2	FL	895	21	WI	131
3	GA	566	22	AL	108
4	WA	505	23	OK	73
5	NC	484	24	CT	69
6	AZ	473	25	LA	60
7	CO	391	26	NH	57
8	OH	384	27	AR	48
9	VA	372	28	NE	40
10	IL	302	29	NM	36
11	NJ	297	30	MS	32
12	IN	294	31	WY	30
13	MI	288	32	KS	28
14	TN	278	33	ID	21
15	PA	277	34	DC	19
16	MA	238	35	RI	16
17	NV	233	36	IA	15
18	OR	230	37	MT	15
19	MN	188	38	ME	12
			39	AK	8
			40	ND	7
			41	SD	7
			42	VT	1
			Grand Tota	9,385	
			Top 10	6,065	

[8] NCRC Comment On Federal Reserve Board's Advance Notice Of Proposed Rulemaking Regarding The Community Reinvestment Act – February 2021, https://ncrc.org/ncrc-comment-on-federal-reserve-boards-advance-notice-of-proposed-rulemaking-regarding-the-community-reinvestment-act-february-2021/

Based on this data analysis, NCRC would recommend that Figure Bank, NA devise a strategic plan that would set goals and evaluations in at least the ten states from California through Illinois that comprised about two thirds of Figure's open-end loans in 2020. These states represent a diversity of states ranging from West, Midwest, East and South and in size from the most populous to less densely populated. The de novo bank would thus be responding to a variety of needs from a diverse population and would not be focused only on the most populous states.

In addition, in its financial inclusion plan, Figure Bank stated it was contemplating targeting financial inclusion efforts in the Deep South where credit scores are lower, on average.[9] The bank could therefore consider adding Louisiana, Alabama and Mississippi as assessment areas.

Within each of the states, Figure Bank could choose two to four assessment areas that could also represent a variety of areas ranging from the largest metropolitan areas, smaller cities and rural counties. Figure Bank could also consult with NCRC's recent study that contains a methodology for identifying areas that are relatively underserved but that might be better served by online lenders.[10] The resulting number of assessment areas would range from 26 if Figure chose two areas in each of the thirteen states to 52 if it chose four. This total would be comparable to the number of assessment areas for the top 100 banks, which would be reasonable for the fourth largest HELOC lender in the country. The plan should also commit Figure Bank to goal setting and evaluation for each of the states, as a whole, in which it will have assessment areas so that the bank would have some accountability to the areas within the states not designated as assessment areas.[11]

The strategic plan could develop goals for retail lending and community development for the assessment areas. Retail lending is a more standardized activity that is mostly generated via Figure's online platform. Therefore, goals and performance measures could be established for each of the areas. Community development (CD) activities are not as standardized and require more staff time and possibly site visits. Figure Bank could commit to focusing on areas that are relatively underserved and in need of more CD financing as measured by the level of retail lending and CD financing (depending on whether the agencies make CD data available for geographical areas as part of CRA reform).

As it stands now, Figure Bank's choice of assessment areas is a relic from the past that is not fair to communities or even other banks that have more expansive CRA requirements simply because they have branch-based instead of online models for providing loans and services. The OCC

[9] Figure Bank, NA application, November 2020, p. 66.
[10] Bruce Mitchell, PhD. and Josh Silver, *Adding Underserved Census Tracts As Criterion On CRA Exams*, NCRC, January 2020, https://ncrc.org/adding-underserved-census-tracts-as-criterion-on-cra-exams/
[11] Josh Silver, *The Community Reinvestment Act and Geography: How Well Do CRA Exams Cover the Geographical Areas that Banks Serve?*, NCRC, 2017 https://ncrc.org/wpcontent/uploads/2017/05/cra_geography_paper_050517.pdf

must reject the choice of the Reno area and require the applicant to develop an approach similar to the one outlined here.

Toward a Substantial CRA Plan That Includes Major Lines of Business

An acceptable strategic plan must include goals from the three tests of the large bank exam (assuming that Figure Bank's asset level would place it in the large bank category, which would seem consistent with Figure Bank's proposal to engage in community development financing). In fact, the current OCC CRA regulation requires that:

> A bank or savings association shall address in its plan all three performance categories and, unless the bank or savings association has been designated as a wholesale or limited purpose bank or savings association, shall emphasize *lending and lending-related activities* (italics added).[12]

Figure Bank's application omits goal setting for its retail lending, which is a violation of the OCC regulatory requirements for strategic plans and also inconsistent with its market position as the fourth largest HELOC lender in the country. With such a dominant market position, it is incumbent on Figure to commit to retail goal setting for low- and moderate-income (LMI) borrowers and communities. NCRC appreciates that Figure Bank committed to goals for community development financing but disagrees strongly with an omission of retail lending goals.

Income and Race Goals for Retail Lending and Services

A NCRC HMDA analysis revealed relatively low lending to LMI and people of color borrowers. Using national median income figures[13], NCRC estimated that about 12% of Figure's 9,385 HELOC loans were for LMI borrowers in 2020. Likewise, Figure made about 7% of its HELOC loans to African-Americans which were about 13.4% of the nation's population, and 12% of its loans to Hispanics which were about 18.5% of the population.[14]

In order to improve its CRA and fair lending performance, Figure Bank must commit to establishing goals over its strategic plan time period that would bolster its lending to these populations. Separate goals should be established for HELOC, home purchase and refinance lending since each type of lending responds to different needs and varies in terms of the level of difficulty in reaching traditionally underserved populations (HELOC lending perhaps being the most difficult for underserved populations and home purchase lending easier due to the plethora of Fannie Mae, Freddie Mac and public sector home purchase products and subsidies).

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[12] OCC CRA Regulation, https://www.ecfr.gov/current/title-12/chapter-I/part-25#

[13] NCRC obtained national income figures via the Census Bureau's website, https://www.census.gov/library/publications/2021/demo/p60-273.html

[14] National racial and ethnic composition obtained via https://www.census.gov/quickfacts/fact/table/US/RHI225219

The goals could be established in relationship to an industry benchmark (percent of loans issued by all lenders in a geographical area) and a demographic benchmark (percent of households that are either LMI or racial or ethnic minority). In particular, racial and ethnic benchmarks could be developed for geographical areas exhibiting significant racial or ethnic lending disparities.[15]

The goals could include progressively more challenging targets in terms of increased percentages over each of the years in the strategic plan. In addition, the goals could establish thresholds for Satisfactory performance (matching the industry benchmark) and for Outstanding perfomance (exceeding the industry and demographic benchmark). Figure Bank should assess whether it would compare itself against all lenders or primarily online lenders for the industry benchmark and should show its analysis and choices thoughtfully in tables in its proposed strategic plan.

Like retail lending, Figure Bank should commit to goals for retail service provision. Figure Bank touts its Figure Pay account and its Point of Sale (POS) Credit. It should establish goals similar to retail lending by adopting comparisons to benchmarks (at least the demographic benchmark), and establishing goals for Satisfactory and Outstanding performance that are increased in difficulty for each year of the plan.

Fair Lending and HMDA Data Accuracy Concerns Must Be Addressed

Figure Bank NA's application is inexcusably silent regarding fair lending compliance and adherence to consumer protection laws. The OCC must reject this application unless it is amended and thoughtfully discusses Figure's racial and ethnic disparities in lending and how the lender intends to narrow these disparities and ensure that it is not unlawfully discriminating nor violating laws against unfair and deceptive lending. In addition, it appears that Figure Lending LLC has HMDA disclosure irregularities by not reporting loan terms and conditions such as adjustable rates that are common in HELOC lending.[16]

Table 1 below shows HELOC pricing compared to Combined Loan to Value Ratio (CLTV) and income of borrower for first and second lien loans. As expected, the pricing consists of interest rates that were higher compared to the average prime offer rate for second-lien loans than first-lien loans. The lender was assuming more risk as measured by higher CLTV ratios in the second-lien loans and thus is charging higher interest rates. Interestingly, the rate spread was lower for

[15] Brad Blower, General Counsel, NCRC; Josh Silver, Senior Policy Advisor, NCRC; Jason Richardson, Director of Research and Evaluation, NCRC; Glenn Schlactus, Partner, Relman Colfax PLLC; Sacha Markano-Stark, Attorney, Relman Colfax PLLC, *Adding Robust Consideration Of Race To Community Reinvestment Act Regulations: An Essential And Constitutional Proposal*, NCRC, September 2021, https://ncrc.org/adding-robust-consideration-of-race-to-community-reinvestment-act-regulations-an-essential-and-constitutional-proposal/

[16] Figure LLC is a non-depository institution and as such does not qualify for any of the partial reporting exemptions granted by Congress under the Economic Growth, Regulatory Relief, and Consumer Protection Act. It also has a loan volume that is higher than the threshold for reporting complete HMDA data. See CFPB rule, *Partial Exemptions From the Requirements of the Home Mortgage Disclosure Act Under the Economic Growth, Regulatory Relief, and Consumer Protection Act (Regulation C), September 7, 2018*, https://www.federalregister.gov/documents/2018/09/07/2018-19244/partial-exemptions-from-the-requirements-of-the-home-mortgage-disclosure-act-under-the-economic

low-income borrowers than borrowers with higher incomes, probably due to lower CLTVs. Disturbingly, Table 2 shows a lack of this relationship when comparing African American and white borrowers in second lien lending. Despite almost identical CLTVs, African Americans were being charged about 46 basis points higher than white borrowers.

Admittedly, this analysis did not control for other underwriting variables but it points to a significant disparity that needs further investigation and explanation. Most importantly, an applicant has a responsibility to be forthright about any such disparities and explain how they are not discriminatory and what steps it would take to reduce these disparities. In the case of African American second-lien HELOC borrowers, 46 basis points can make a difference of several thousand dollars over the course of a loan. At the very least, Figure Bank would want to reduce this pricing disadvantage if it wishes to retain African American customers.

Figure reported that for all of its HELOC loans in 2020, a proprietary credit scoring model was employed. Online lenders often use algorithms that have not been thoroughly vetted for fair lending compliance. Figure Bank's application did not discuss how it proposes to ensure fair lending compliance using its underwriting methods.

Table 1: HELOC pricing and CLTV by Income of Borrower

Borrower Income	HELOCs	Ave Rate Spread	Ave CLTV
First Lien	1,003	4.17	25.45
Low	146	4.43	24.91
Moderate	216	4.30	25.11
Middle	230	4.24	28.68
Upper	411	3.97	24.01
Second Lien	8,382	5.37	70.59
Low	153	5.22	51.59
Moderate	627	5.51	60.54
Middle	1,462	5.39	67.07
Upper	6,140	5.35	72.93
Grand Total	9,385	5.24	65.77

Table 2: HELOC Pricing and CLTV by Race of Borrower			
Race of primary applicant	# HELOCs	Ave Rate Spread	CLTV
First Lien	1003	4.17	25.45
American Indian or Alaska Native	8	4.16	34.83
Asian	26	3.45	25.86
African American	77	4.51	32.11
White	671	4.16	24.54
Info not provid by app in mail, internet, tele	182	4.28	25.61
Asian Indian	11	3.67	27.59
Chinese	7	3.10	19.16
Filipino	6	4.21	27.14
Japanese	1	-0.70	16.38
Korean	2	3.72	26.05
Vietnamese	2	4.53	11.07
Other Asian	9	3.99	29.70
Other Pacific Islander	1	6.09	14.65
Second Lien	8382	5.37	70.59
American Indian or Alaska Native	73	5.53	71.01
Asian	223	4.83	71.01
African American	449	5.83	71.92
Native Hawaiian or Other Pacific Islander	6	4.81	63.10
White	5534	5.37	70.86
Info not provid by app in mail, internet, tele	1755	5.38	69.82
Asian Indian	84	5.20	70.72
Chinese	30	4.32	63.63
Filipino	91	5.25	69.71
Japanese	15	4.95	64.06
Korean	39	4.26	70.26
Vietnamese	35	3.87	57.51
Other Asian	40	5.36	73.35
Native Hawaiian	1	0.01	44.18
Guamanian or Chamorro	1	6.06	94.41
Other Pacific Islander	6	5.30	61.60
Grand Total	9385	5.24	65.77

The full extent of Figure's compliance with fair lending and consumer protection law cannot be ascertained with the publicly available HMDA data due to possible errors and omissions in Figure Lending LLC's data. Figure's data suggests HELOC lending strikingly different regarding loan terms and conditions than the industry's HELOC lending. HELOC lending is relatively risky with loan terms and conditions that are more onerous for the borrower than other types of lending. The CFPB reported that in 2018, 77 percent of HELOC loans were adjustable rate, half featured interest-only payments, and prepayment penalties were present on 28 percent of the loans.[17] These trends continued in 2019 according to the CFPB.[18] In addition, interest rates on HELOCs were high.[19]

The only similarity between Figure's HMDA data and that of the industry was the high interest rates. Beyond that similarity, Figure Lending LLC reported that for 2020, none of its HELOC loans had interest-only payments, none were negatively amortizing and none had adjustable rates as revealed by introductory rates. Figure's HELOC lending was so unusual as to be implausible.

Figure Lending LLC states on its website that it does not have prepayment penalties, which is confirmed by our HMDA data analysis. However, since prepayment penalties are a common feature for HELOC lending, we request that the OCC follow-up with Figure Lending LCC to verify it does not require prepayment penalties.[20]

Moreover, Figure's HMDA data reported Not Applicable (NA) for origination charges and for total points and fees for all of its HELOC originations in 2020. In contrast, its webpage has the following consumer disclosure:

> You will be responsible for an origination fee of up to 4.99% of your initial draw, depending on the state in which your property is located and your credit profile. You may also be responsible for paying recording fees, which vary by county, as well as a subordination fee if you ever ask Figure to voluntarily change lien position.[21]

The HMDA regulation does not require reporting of origination fees and total points and fees for HELOC loans.[22] Because of this, we note that Figure Lending LLC's HMDA data prevents an investigation of whether origination fees or other points and fees vary by race or ethnicity for similarly situated borrowers. An impartial investigation of the fair lending record of this applicant cannot be performed by a member of the public reviewing this application and the HMDA data. We therefore request that the OCC further investigate whether any aspect of Figure Lending LLC's pricing that cannot be detected with HMDA data varies by race or ethnicity.

In addition, Figure Lending LLC's reporting on loan terms and conditions appears to be an extreme outlier compared to its peers in the industry. The OCC and CFPB should also investigate the accuracy of this aspect of Figure's HMDA data and institute remedial action if necessary.

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[17] CFPB, *Introducing New and Revised Data Points in HMDA: Initial Observations from New and Revised Data Points in 2018 HMDA*, August 2019, pp. 33-37, https://files.consumerfinance.gov/f/documents/cfpb_new-revised-data-points-in-hmda_report.pdf
[18] CFPB, *An Updated Review of the New and Revised Data Points in HMDA Further Observations using the 2019 HMDA Data*, August 2020, pp. 35-36, https://files.consumerfinance.gov/f/documents/cfpb_data-points_updated-review-hmda_report.pdf
[19] CFPB, Ibid, p. 67.
[20] See https://www.figure.com/home-equity-line/ regarding prepayment penalties.
[21] See Figure's website https://www.figure.com/home-equity-line/#disclaimer-numbered-7
[22] CFPB, *Introducing New and Revised Data Points in HMDA Initial Observations from New and Revised Data Points in 2018 HMDA*, pp. 74 and 77, https://files.consumerfinance.gov/f/documents/cfpb_new-revised-data-points-in-hmda_report.pdf

Development of Special Affordable Products

Figure Bank described a number of features for its Figure Pay account and its Point of Sale (POS) credit that appear to be affordable and consumer friendly. For example, the Figure Pay account will not have monthly fees or minimum balances.[23] The application stated that "no punitive overdraft fees" would be assessed but the application should be more forthcoming, especially in the wake of several large banks dramatically reducing their overdraft fees in recent weeks.[24]

Unlike its commitment to lower-cost retail service products, the application did not contain any description of special affordable retail lending products. It did not describe how Figure Bank would tailor its HELOC lending to be lower cost for LMI borrowers. A significant number of Figure Lending LLC's HELOC loans in 2020 (over 3,000) were used for home improvement. LMI households often need financing to weatherize their homes, making them more energy efficient and more affordable. Figure Bank should explore whether it can create a HELOC product specifically geared towards the needs of LMI homeowners for home improvement, energy efficiency upgrades and accessibility improvements for seniors or people with disabilities.

The application did not describe whether Figure Bank would use federal government guarantees, Fannie Mae or Freddie Mac home purchase products that lower costs for LMI borrowers. It did not commit Figure Bank to developing its own proprietary home purchase product that could offer lower down payments or other features for reaching under-banked populations that it pledged to serve. Finally, no specific marketing or outreach plans were described such as using minority-owned media or partnering with community-based organizations for advertising the availability of its products to underserved populations.

Without a commitment to goal setting for its retail products, a description of how its major retail lending products will be tailored to underserved populations or marketing these products, the public lacks confidence in Figure Bank's professed commitment to underbanked and unbanked populations.

Refinancing of Student Loans

In addition to its established student loan markets, Figure Bank should consider for its CRA plan that a segment of LMI students attended for-profit colleges and vocational schools that have been widely reported as plunging their students into high levels of debt.[25] Figure Bank should devote a significant amount of its CRA plan to devising an outreach and loan program for LMI students. Figure Bank could find a large number of post-secondary institutions in its assessment areas that

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[23] Figure Bank, November 2020 application, p. 61.
[24] Lananh Nguyen, *Bank of America says it will cut overdraft fees this year*, New York Times, January 2022, Jan. 11, 2022 https://www.nytimes.com/2022/01/11/your-money/bank-of-america-overdraft-fees.html
[25] Woodstock Institute, *Starting out Behind: Trends in Student Loan Burdens at For-Profit Colleges* (May 2015), http://www.woodstockinst.org/research/starting-out-behind-trends-student-loan-burdens-profit-colleges

have sizable numbers of LMI students. It should market a student loan refinancing product and financial counseling to these students.

Figure Bank's student lending must have clear and equivalent protections as federal loans. Figure Bank must also commit to not refinancing the loans of students with repayment plans that are income-based. Like retail lending and services, Figure Bank must develop measurable goals, products and marketing approaches for the LMI market for its student lending.

Community Development Financing

NCRC appreciates that Figure Bank, NA will create strategic plan goals that would create a ratio of CD financing per assets. Figure Bank NA made a vague reference to consulting strategic plans of financial institutions of comparable size.[26] While helpful, it should take the next step and compare its ratio of CD financing per assets to those of its peers and create targets for Satisfactory and Outstanding performance that become incrementally more difficult for each of the years in the plan.

The CD distribution of CD financing should be purposeful, and not scattershot. Figure Bank, NA should make a commitment in its plan to targeting relatively underserved areas or areas in which consumers and communities are particularly disadvantaged such as the South as Figure Bank mentioned.

Figure Bank's application briefly discussed the creation of Figure Banking Technology Institute (FBTI), which would be funded by an annual contribution of 5% of its profits. As an alternative to college, FBTI would instruct LMI students on computer skills, including blockchain and artificial intelligence technology.[27] While this initiative might be appealing, the sparse description leaves too many questions unanswered. How would the bank ensure that FBTI would be accredited and reputable with a satisfactory track record for placing LMI students into jobs and careers? How would FBTI recruit students and ensure that its tuition was affordable, instead of becoming a way for the bank to make student loans that may or may not be responsible?

Figure Bank's application mentions community development services including the provision of financial education training.[28] However, details were sparse, making it impossible to determine if the financial education would be targeted to underserved and underbanked populations. The application did not indicate how it would establish goals such as the number of courses offered to any specific number of students or the number of hours per employee. The application would also be bolstered if it mentioned goals in terms of outcomes such as increasing credit scores of clients and committing to collecting data and conducting analysis on client outcomes.

CD financing and service should complement retail lending and service activity to promote comprehensive development and revitalization. It should be targeted to specific assessment areas

[26] Figure Bank, NA, November 2020 application, p. 66 or p. 8 of its Financial Inclusion Plan.
[27] Figure Bank, NA, November 2020 application, p. 63 or p. 5 of Financial Inclusion Plan.
[28] Figure Bank, NA, November 2020 application, p. 67 or p. 9 of Financial Inclusion Plan.

in community development initiatives. Figure Bank's application makes no commitment to assess how to combine retail and CD activities to further promote community development.

Conclusion

A bank charter is a privilege, not a right. An application for a bank charter must have sufficient detail and descriptions of a CRA plan to reassure the public that underserved populations and communities would reap significant benefits from the proposed bank. Instead, Figure Bank proposed an assessment area that would cover a tiny fraction of its retail activity rather than committing to measuring its retail performance to LMI and people of color consumers and communities where it would make most of its loans. Figure Bank offered a few methodological proposals for measuring CD financing but did not do so for retail lending.

Figure Bank's HMDA data also appeared to be irregular, making it difficult for members of the public commenting on this application to compare Figure Lending LLC with its industry peers regarding HELOC loan terms and conditions. Since members of the public are unable to offer more than a cursory overview of fair lending performance due to HMDA data limitations, we ask the OCC to further investigate Figure Lending LLC's pricing. In addition, the charter application did not discuss overall compliance with fair lending and consumer compliance law. This is inadequate, but especially since online lenders use relatively new techniques for underwriting, which could be the case for Figure Lending LLC's propriety credit scoring model.

We ask the OCC to reject this application.

Thank you for the opportunity to comment on this important matter. This letter represents the perspective of NCRC and the undersigned organizations. If you have any questions, you can reach me at jvantol@ncrc.org or Josh Silver, Senior Advisor, at jsilver@ncrc.org.

Sincerely,

Jesse Van Tol

Jesse Van Tol
CEO

Undersigned Organizations

National
Americans for Financial Reform Education Fund
Consumer Action
Grounded Solutions Network

Alabama
NAACP Economic Programs

Alaska
AKPIRG

California
California Reinvestment Coalition
Peoples Opportunity Fund
People's Self-Help Housing

Delaware
Delaware Community Reinvestment Action Council, Inc.

District of Columbia
Coalition for Non Profit Housing and Economic Development

Florida
Community Reinvestment Alliance of South Florida
Goldenrule Housing & Community Development
Metro North Community Development Corp
NEW URBAN DEVELOPMENT LLC
Real Estate Education And Community Housing Inc.

Georgia
Georgia Advancing Communities Together, Inc.

Illinois
Housing Action Illinois
Universal Housing Solutions CDC

Indiana
Fair Housing Center of Central Indiana, Inc.
HomesteadCS

Northwest Indiana Reinvestment Alliance

Maryland
Maryland Consumer Rights Coalition

Massachusetts
Ceres

Michigan
Michigan Oncology Quality Consortium

Missouri
Metropolitan St. Louis Equal Housing and Opportunity Council

Mississippi
HOUSING EDUCATION AND ECONOMIC DEVELOPMENT (HEED)

New York
Devotion USA, Inc.
Fair Finance Watch
Long Island Housing Services, Inc.

Ohio
Homes on the Hill, CDC
Home Ownership Center if Greater Cincinnati
JOVIS

Oregon
CASA of Oregon

Texas
Southern Dallas Progress Community Development Corporation
TCH Development, Inc

Wisconsin
Metropolitan Milwaukee Fair Housing Council