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Board of Governors of the Federal Reserve System
Docket No. R-1769
RIN 7100-AG29

comments@fdic.gov
Federal Deposit Insurance Corporation
RIN 3064-AF81

Office of the Comptroller of the Currency
Docket ID OCC-2022-0002

Re: Joint Notice of Proposed Rulemaking on the Community Reinvestment Act

Ladies and Gentlemen:

IntraFi Network LLC (“*IntraFi*”)¹ appreciates having this opportunity to comment on one aspect of the Joint Notice of Proposed Rulemaking and Request for Comment, Community Reinvestment Act, by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation (“*FDIC*”), and the Office of the Comptroller of the Currency, published in the Federal Register on June 3, 2022 (“*JNPR*”).²

IntraFi applauds the agencies’ efforts to update Community Reinvestment Act (“*CRA*”) regulations to reflect changes in the financial services industry. Our comments are limited to one question that was raised concerning reciprocal deposits. IntraFi agrees with the concept of using deposits that a bank places on a reciprocal basis, rather than reciprocal deposits that it receives, in the deposits denominator of the relevant CRA metrics set forth in the proposed rule. As the agencies have noted, a bank will know the location of the depositor for the deposits that it places, but not for the reciprocal deposits that it receives. Focusing on the deposits that it places permits matching to facility-based assessment areas and retail lending areas.

IntraFi does, however, suggest that the agencies consider a technical refinement concerning terminology. The *JNPR* refers to an “institution sending [a] non-brokered reciprocal deposit.”³ The Federal Deposit Insurance Act and existing FDIC regulations do not speak in terms of

¹ IntraFi, formerly known as Promontory Interfinancial Network, LLC, was founded in 2002. Approximately 200 institutions in the IntraFi deposit network are community development financial institutions, minority depository institutions, or both. Reciprocal deposits are extremely valuable to these institutions in funding community lending.

² Joint Notice of Proposed Rulemaking and Request for Comment, Community Reinvestment Act, 87 Fed. Reg. 33,884 (June 3, 2022).

³ *Id.* at 33,996.

institutions “sending” non-brokered (or brokered) reciprocal deposits. Rather, they describe an agent institution sending or placing a “covered deposit” through a deposit placement network and receiving reciprocal deposits in the same aggregate amount (and maturity, if any).⁴

The covered deposits that an agent institution places very often become non-brokered reciprocal deposits at the institutions that receive them. But there are also circumstances in which they do not, and the agent institution does not know whether covered deposits that it has placed have become non-brokered reciprocal deposits for receiving banks.⁵ By excluding all reciprocal deposits (whether or not brokered) that a bank receives and including all covered deposits that a bank places on a reciprocal basis (whether or not they become non-brokered reciprocal deposits for the receiving institution), the agencies can provide a more workable description of “deposits” for purposes of the CRA metrics.⁶

Applying these considerations would result in the following restatement of the position described in the JNPR:

For purposes of the CRA metrics in the rule, (1) covered deposits placed by an agent institution on a reciprocal basis through a deposit placement network will be treated as if they are deposits at the agent institution, and (2) reciprocal deposits received by an agent institution through a deposit placement network will be treated as if they are not deposits at the agent institution.

* * *

⁴ 12 U.S.C. § 1831f(i)(2)(B), 12 C.F.R. § 337.6(e)(2)(ii); 12 U.S.C. § 1831f(i)(2)(E), 12 C.F.R. § 337.6(e)(2)(v). An “agent institution” is an insured depository institution that places a covered deposit through a deposit placement network and meets certain other requirements. 12 U.S.C. § 1831f(i)(2)(A), 12 C.F.R. § 337.6(e)(2)(i).

⁵ One circumstance in which covered deposits that an agent institution places on a reciprocal basis do not become reciprocal deposits at a receiving bank is when the receiving bank does not participate in the network on a reciprocal basis. As the FDIC noted in issuing its final rule on the reciprocal deposits exception, banks in a network in which reciprocal deposits are processed can also receive deposits through the network “without the institution placing into the network a deposit of the same maturity and same aggregate amount (sometimes referred to as ‘one-way network deposits’)” Final Rule, Limited Exception for a Capped Amount of Reciprocal Deposits from Treatment as Brokered Deposits, 84 Fed. Reg. 1,346, 1,347 (Feb. 4, 2019). Even when covered deposits become reciprocal deposits at a receiving bank, their status as non-brokered depends on whether the receiving bank’s reciprocal deposits exceed \$5 billion or 20 percent of the bank’s liabilities. 12 U.S.C. 1831f(i)(1), 12 C.F.R. § 337.6(e)(1). The agent institution will not know whether the receiving bank’s reciprocal deposits exceed those limits.

⁶ A separate question is whether certain covered deposits that an agent institution places on a reciprocal basis should be excluded from “deposits” for purposes of CRA metrics because of policy considerations. For example, a community development financial institution (“CDFI”), acting as an agent institution, might place a large covered deposit from an out-of-area business that makes a socially-motivated deposit at the CDFI to support the CDFI’s mission. It could be argued that the covered deposit (along with corresponding reciprocal deposits) should be excluded from the deposits denominator to avoid inadvertently discouraging such deposits. The present comment letter does not address whether such a policy-based exclusion would be warranted, deferring to the industry.



Please do not hesitate to contact the undersigned at dphillips@intrafi.com if you have any questions or need further information.

Sincerely,



Douglas E. Phillips

Senior Vice President and General Counsel
IntraFi Network LLC