August 5, 2022

James P. Sheesley
Assistant Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
Attention: Comments RIN 3064–AF81

Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th Street SW Suite 3E–218
Washington, DC 20219
Attention: Comment Processing, Docket ID OCC—2022-0002

Ann E. Misback
Secretary Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551
Attention: Comments Docket R-1769; RIN 7100-AG29

Re: Community Reinvestment Act Proposed Regulations

Dear Madam or Sir:

The Indiana Community Reinvestment Act Bankers Association, Inc. ("ICRABA") is pleased to submit this response to the Request for Comment (the "Request") from the Federal Banking Agencies, which seek comments on the joint notice of proposed rulemaking ("NPR" or "proposal") to "assess the institution's record of meeting the credit needs of its entire community, including low-and-moderate-income neighborhoods, consistent with the safe and sound operation of such institution" consistent with the Community Reinvestment Act[1] ("CRA").[2]

ICRABA is a state-wide organization for CRA Officers and Community Development bank personnel whose mission is to "empower banking professionals throughout Indiana by connecting, developing, and engaging a network of CRA resources to positively impact our communities." The organization is a membership-based group focused on providing timely and relevant content to enable our members to better meet their bank's CRA goals. Membership is open to any FDIC-insured, state, or federally chartered financial institution with responsibilities for complying with the CRA that have a least one CRA Assessment

[1] 12 U.S.C. 2901
[2] Request, page 33886

Area designated within the State of Indiana. The membership is comprised of representatives from small, intermediate, and large banking institutions.

During the monthly meetings of ICRABA, our members work to promote the key concepts of the CRA, including discussion relative to lending, investments, services, and community development opportunities. We leverage our collective knowledge through sharing of best practices, networking opportunities and success stories to advance and cultivate community development efforts throughout the state of Indiana. We have come to recognize the increasing need to modernize CRA regulation and supervision as it has become overly complex, unpredictable, and has not kept pace with the way the consumers expect to use technology to access financial products and services. The need for a tailored approach to account for differences in bank size, business models, and diversity in local conditions is paramount to meeting the obligations under the CRA statute. In addition, clarity, transparency, and consistency in regulatory approach is critical to embracing the spirit and intent of the CRA in increasing access to banking products and services throughout entire communities, including low- and moderate-income neighborhoods and underserved areas.

Since the Community Reinvestment Act first became effective in 1977, the financial services industry landscape has changed significantly. The joint NPR reflects a commendable interagency effort to modernize the framework for evaluating banks' efforts in meeting the purpose of the CRA statute. We thank the agencies for their leadership and diligent effort to draft a joint proposal on which stakeholders can provide feedback and we especially appreciate the coordinated effort of all three banking agencies—the OCC, FDIC, and Federal Reserve—to develop a final CRA rule that will be issued on an interagency basis.

The following comments are provided on behalf of ICRABA as a whole and not the individual member banks. While there are many positive components of the proposal that will impact each member bank differently based on their business model, product and services and delivery channels, and markets served which are rural and urban, our comments will center on four key elements of the proposal that impact all Indiana financial institutions who must endeavor to comply with the new regulation:

- Asset Thresholds
- Retail Lending Assessment Areas
- Consistency of definition of "Small Business" and "Affordable Housing"
- Timeline for implementation and transition to new regulation

Asset Thresholds:

Under the proposal, Small Banks are defined as those with assets of up to $600 million and Intermediate Banks are those with assets greater than $600 million and less than $2 billion. Large Banks are those with assets of at least $2 billion with additional requirements for Banks with assets over $10 billion. While we appreciate the increases in the asset thresholds and the recognition of the varying levels of bank capacity and resources based on bank size and business model, the asset size definitions are largely reflective of conditions when CRA was adopted in 1977 and should be significantly increased. The bulk of the regulatory burden will fall on large banks with assets over $10 billion as they will be required to collect and report additional data under the proposal for the Retail Lending Test, Retail Services and Products Test, Community Development Financing Test, and Community Development Services Test. Given the complexity of the proposed tests under the NPR, we question whether banks of this size at the low end of the Large Bank spectrum will have the resources available to adequately meet these new obligations

and believe a more appropriate threshold for the additional requirements would be $50 billion. We would propose differentiating the asset thresholds into four classifications: Small (<$1B), Intermediate ($1B - $10B), Large ($10B - $50B), and Super Large (>$50B).

Retail Lending Assessment Areas:

The proposal introduces a requirement for establishing Retail Lending Assessment Areas ("RLAA") based on triggering thresholds of at least 100 home mortgage loans or 250 small business loans outside of a bank's Facilities Based Assessment Area ("FBAA") requiring the delineation of RLAAs in any MSA or combined non-MSA areas of a state. This would significantly expand CRA oversight yet, the agencies do not explain how the RLAA concept adheres to the concept of "community" required under the CRA statute. We are unclear as to the extent of the area to be delineated for the "combined non-MSA areas of a state" and suggest more clarity in how this is applied. For example, if a bank made more than 100 mortgage loans in multiple non-MSA counties based throughout the State, would the institution be required to aggregate the loans from those non-MSA counties and then include all non-MSA counties for the entire State as a RLAA? If the institution did not have a FBAA in an MSA that straddles two states, would the entire MSA be delineated as a RLAA? Given the sweeping nature of the changes triggered by RLAAs, it is incumbent upon the agencies to ensure the final rule is consistent with the CRA statute and to provide the legal analysis for applicability with the public and provide clarity for applying the new requirements. We also suggest that consideration be given to exempting large banks from the requirement to delineate RLAAs when they conduct a substantial portion (80% or greater) of their lending within their FBAA(s).

Retail Lending Test - Consistency in Definitions:

Small Business/Small Farm: The agencies propose to define "small business" and "small farm" consistently with the Consumer Financial Protection Bureau's proposal under Section 1071 of the Dodd-Frank Act.[3] As such, the agencies propose to define "small business" as a business having gross annual revenues of $5 million or less for its preceding fiscal year. This is a significant increase from the current level of $1 million. The increase from $1 million to $5 million as proposed under the Section 1071 proposed rule would mean a majority of loans made by an Indiana community bank would be a 'small business loan' or 'small farm loan' subject to reporting requirements. This will impose significant new data collection and reporting requirements on already taxed community banks that opt-in to the Retail Lending Test. A $5 million gross revenue threshold is simply too high and would erode the community development lending results of every financial institution. Conceptually, we support aligning the definitions for purposes of CRA, Section 1071 and Call Reporting requirements. Therefore, if the final 1071 rule uses the larger size threshold, then we agree that the same definition should apply for CRA purposes. Otherwise, banks will have complicated, inconsistent data analyses to perform. Additionally, if a small business loan has a community development purpose, banks should have the option to classify it as a community development loan, but still report for purposes of Section 1071 reporting requirements.

Affordable Multifamily Loans: Loans secured by multifamily housing will be considered as a major product line. The proposal also considers the subset of multifamily loans that provide affordable housing to low- or moderate-income individuals under the Community Development Financing Test. The proposed affordability standard for naturally occurring affordable housing is 30 percent to 60 percent of the area median income ("AMI"). This would establish a higher bar than what is used today, which is 30 percent to

[3] 86 Fed. Reg 56356 (Oct. 8, 2021), as corrected by 86 Fed. Reg. 70771 (Dec. 31, 2021)

80 percent of AMI. This reduction in eligibility criteria seems counterintuitive, particularly at a time when affordable housing is sorely needed throughout the Indiana and the country. It would also maintain consistency with the government standards for establishing affordable status of a multifamily property.

Implementation Timeline:

The rule would become effective 60 days after publication of a final rule in the Federal Register. For certain provisions, the agencies propose an applicability date of approximately 12 months after publication of a final rule. Given the complexity of the rule, the additional data reporting requirements that would conceivably coincide with implementation of the final rule under Dodd Frank Section 1071 (the majority of our members utilize third-party vendors to capture and report data requiring additional time for coordination and upgrading of systems), and the additional burden this will place on banks to understand the impact to the institution and stakeholders, provide training for bank personnel and community partners, and identify the necessary resources for gathering and reporting data, a more appropriate effective date would be 24 months after publication in the Federal Register for all provisions.

The Indiana CRA Bankers Association, Inc. recognizes that CRA reform will lead to a modernized regulatory framework that recognizes changes in the financial and banking environment and will result in a more robust and inclusive financial services industry to further advance and develop strong communities in Indiana and across the nation. We appreciate the opportunity to comment on the proposed CRA rules.

Sincerely,

Indiana CRA Bankers Association, Inc.
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