



Missouri Bankers Association

August 4, 2022

James P. Sheesley
Assistant Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
Attention: RIN 3064-AF81
comments@fdic.gov

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

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

Re: Community Reinvestment Act Regulations

Dear Madam or Sir:

The Missouri Bankers Association ("MBA") represents more than 242 commercial banks and savings and loan institutions that collectively have more than 2,000 locations in Missouri and employ over 30,000 Missouri residents. Our member banks and our bankers are invested in their communities, and the success of our members is grounded in promoting the prosperity of their local communities. The MBA is proud of our bankers, and we are thankful for all the benefits that they bring to Missouri and to our fellow citizens.

Banks are under disproportionate regulatory burden in comparison to less regulated credit unions and financial service providers and face extreme mandates and legal risk from the regulatory agencies. These factors have contributed to the decline in new charter activity and bank consolidation. The last bank charter in Missouri was granted in 2008. We are losing about ten banks each year to consolidation.

Regulatory burden is a material competitive disadvantage for banks today. For example, the CFPB, in 2019, reported that independent non-depository mortgage companies originated over 56% of first-lien, owner occupied homes.¹ The CRA *does not apply* to these lenders.

¹ https://files.consumerfinance.gov/f/documents/cfpb_2019-mortgage-market-activity-trends_report.pdf

The percentage of mortgages originated outside of banks increased to 77% by 2021. When these non-depository lenders are sanctioned for fair lending violations, including flagrant redlining, these companies simply pay a fine and walk away.²

The Missouri Bankers Association Supports Updating CRA Regulation and Supervision to Reduce Compliance Costs and Legal Risk

The MBA appreciates the coordination of the OCC, FDIC, and the Federal Reserve to develop a final CRA rule on an interagency basis.

CRA regulation and supervision have become overly complex and unpredictable. The need to address the CRA has existed for years, and this need is increasing. Unfortunately, the proposal presented by the agencies increases costs, compliance burden and legal risk.

The agencies cannot solve the problem presented with the current regulations and unpredictable supervision by exponentially expanding the regulations and increasing the burden and severe market disadvantage to banks.

The Missouri Bankers Association Opposes the Illegal Expansion of the CRA to Retail Lending Assessment Areas – the CRA Must First Be Amended by Congress

Under 29 USC sections 2901, et seq, the Congressional mandate and intent of the CRA is to require the regulated financial institutions (banks) to demonstrate that “their deposit facilities” are meeting the credit needs of the communities “in which they (deposit facilities) are chartered to do business.” Id. Section 2901.

A bank’s performance under the CRA impacts the bank in its applications to enter a market via a charter or branch application or a merger or consolidation. Id. Section 2902. The evaluation of the bank related to its “facility” based markets includes meeting the credit needs of low-income and moderate-income neighborhoods, consistent with safety and soundness. Id. Section 2903.

The CRA was enacted by Congress in 1977. The dysfunction in the application of the CRA today is the product of more than four decades of change in financial services markets, capital markets, technology, consolidation in the banking industry and the entry of significant new competitors in retail and commercial lending.

² Not only do independent mortgage lenders escape the CRA, but when charged with fair lending and redlining violations, they pay their fines and then abandon the community. <https://www.consumerfinance.gov/about-us/newsroom/cfpb-doj-order-trident-mortgage-company-to-pay-more-than-22-million-for-deliberate-discrimination-against-minority-families/> Trident paid a \$24 million dollars in penalty and settlement, while not admitting to their redlining activity. Trident’s parent company, Berkshire Hathaway shuttered the company in 2020 after government investigations revealed the bad activity and off-loaded the clean-up to a third party. <https://www.americanbanker.com/news/trident-mortgage-pays-24-4m-for-redlining> CFPB Director Chopra stated at a news conference: “It’s not banks actually that originate most of the mortgages anymore, it’s these mortgage companies, the nonbank lenders and we have to make sure they too are following the law.” “We have to think about what, are we going to do to make sure we root out credit discrimination, whether it’s a traditional bank or a nonbank like Trident.” Id.

The CRA and the agencies are failing, and banks are unfairly handicapped, because the Act is out-of-date. The agencies cannot solve the issues presented without Congressional action.

If the solution is to expand the geographic reach of the Act to include “retail lending assessment areas” then Congress must enact this change. “Retail lending assessment areas” are not a straightforward substitution for local, branch-based lending, but instead represent an unwieldy effort to fundamentally alter the nature of CRA. This kind of substantive change can and should only be accomplished through comprehensive Congressional action.

In addition, the critical “credit needs” of communities today cannot be addressed only by banks. The Act should be expanded to include credit unions and non-bank financial services companies. The establishment of the CFPB provides the appropriate supervisory agency to accommodate the expansion of the CRA to non-bank financial services companies.

Any action to expand the CRA must include credit unions and non-depository financial services companies to assure a level playing field for all providers in retail lending. A prudent expansion will prevent non-bank financial services companies and credit unions, who now represent a significantly higher amount of mortgage and small business lending than was the case in 1977, from engaging in predatory market behaviors and discriminatory redlining. It will also increase credit capacity and competition to better serve low-income and moderate-income communities.

The MBA calls on the agencies and the CFPB to draft and present to Congress the necessary changes to the CRA to support modern and competition-based community reinvestment that assures everyone in the market participates in supporting vital credit needs.

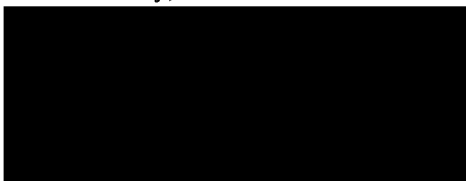
The Missouri Bankers Association Supports Relief for Small and Intermediate Lenders

The agencies propose adjusting the caps for Small Banks and Intermediate Banks to \$600 million and \$2 billion. The MBA supports this proposal. In fact, the MBA believes the thresholds should be higher with no data collecting or reporting requirements for these banks. In addition, to support competition, the agencies should assure that Congress extends the act to credit unions and to financial services companies (non-bank lenders) and provide equivalent relief thresholds. This will foster competition and the formation of new entrants to serve and compete in our credit markets.

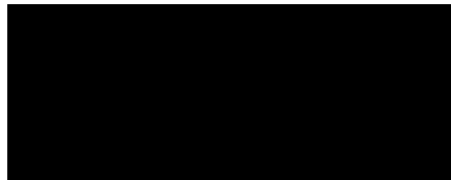
Summary

Again, the MBA opposes the expansion of CRA regulations and supervision without proper enabling legislation. Fortunately, the agencies, with this proposal, have effectively shined a light on the failings of current CRA regulation and supervision and the competitive disadvantage banks are under. It is urgent that the agencies bring these failures to the attention of Congress so that appropriate law can be put in place to promote competition and lending, particularly in markets serving low-income and moderate-income communities.

Sincerely,



Jackson Hataway
President
Missouri Bankers Association



Max Cook
CEO
Missouri Bankers Association