



August 15, 2025

Chief Counsel's Office  
Attention: Comment Processing  
Office of the Comptroller of the Currency  
400 7<sup>th</sup> Street SW, Suite 3E-218  
Washington, DC 20219  
Docket ID OCC-2025-005

Ann E. Misback  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, DC 20551  
Docket R-1869; RIN 7100-AG95

Jennifer M. Jones  
Deputy Executive Secretary  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street NW  
Washington, DC 20429  
RIN 3064-AF13

Re: Community Reinvestment Act Regulations

To Whom It May Concern:

Bank Five Nine (BFN) is a 166-year-old community bank headquartered in Oconomowoc, WI with over \$2.5 billion in assets, primarily serving Milwaukee, Waukesha, Ozaukee, and Washington counties in Southeast Wisconsin. BFN is regulated by the FDIC.

Thank you for allowing comment on rescinding the 2023 CRA Rule and recodify the 1995 CRA regulations currently applicable to banks, as published in the Code of Federal Regulations as of March 29, 2024. BFN is committed to the goals of CRA and to meeting the credit and financial services needs of our customers and communities as evidenced by our mission statement "Make Lives Better." The following are a few examples of how BFN is committed to CRA:

- A small business loan pool for revitalization and economic development that BFN established with a 1% interest rate and \$25,000 loan limit, of which over 150 small businesses have taken advantage of.

- Partnering with community organizations, like BankOn of Greater Milwaukee, to identify opportunities to serve LMI communities and individuals.
- Created a financial education program for the Milwaukee County Community Reintegration Center
- Developed a suite of products intended to bring people into the banking system
  - ITIN Loan program – 90% of customers reside in LMI census tracts
  - BankOn certified checking account
  - Credit builder loan product
- Grant programs for LMI individuals to help them achieve their goal of home ownership.

The 2023 CRA regulation exceeds the CRA statute, is overly complex, and unpredictable. There remains a need to update CRA, however, reinstating the 1995 framework would provide a measure of certainty that allows banks to focus on fulfilling the spirit of CRA while making pertinent updates that do not require regulatory amendment.

### **Support for rescinding the 2023 Rule**

#### **1. The 2023 Rule's assessment area framework goes beyond what the statute allows.**

The 2023 CRA rule requires Large Banks to delineate a new type of assessment area, known as a Retail Lending Assessment Area (RLAA). A bank would be required to delineate a RLAA in any MSA, or combined non-MSA areas of a state, where the bank has originated at least 100 home mortgage loans in each of the two preceding calendar years *or* at least 250 small business loans in each of the two preceding calendar years, outside of the bank's Facility Based Assessment Area (FBAA).

BFN would be classified as a Large Bank under the 2023 CRA rule. To determine the effects of the proposed RLAA change, BFN performed an analysis to determine the effects the change would have on the bank. Currently, BFN has one assessment and dedicates approximately 1.5 FTEs to effectively manage the day-to-day requirements of the current CRA regulation. If the current proposal is implemented as is, BFN would go from one FBAA to potentially five assessment areas including four RLAA's. This increase in RLAA's would require BFN to hire at minimum two FTEs to manage the additional assessment areas effectively.

The 2023 Rule's assessment area framework goes beyond the original intent of the CRA rule which aims to ensure that institutions serve the communities in which they operate by providing access to financial services and investments.

#### **2. A bank may not know what is expected of it until after the evaluation period is over.**

The original intent of the 2023 CRA Rule was to simplify and remove some of the subjectivity in the CRA examination process. The 2023 Rule does not give banks fair notice about which geographic areas and products will be assessed, or what benchmarks are needed to earn a Satisfactory or Outstanding rating, which deviates from its initial intent of creating clarity in the CRA exam process.

### **Recommendations to Improve the 1995 CRA Rule That Do Not Require Regulatory Amendment**

In the past, there has been a lack of predictability regarding activities that count for CRA credit. This unpredictability has put a burden on BFN and may have resulted in inaccurate or missing CRA opportunities in our CRA exams. The agencies should develop an illustrative list of qualifying CRA activities that was contemplated in the 2023 Rule.

To demonstrate the impact of this unpredictability, during our 2012 CRA exam, we were instructed by the CRA examiner how to determine if a loan would qualify as a CD loan. We established an entire framework to calculate what would qualify only to be told by our CRA examiner in our 2015 CRA exam that this was incorrect and to recalculate what qualifies using his method. We again, established an entire framework to calculate both methods only to discover that our 2018 CRA examiner agreed with the 2012 examiner and accepted the initial framework established in 2012. This caused confusion, wasted employees' time, and resulted in inconsistent CRA credit for BFN.

Not only is there a lack of predictability in determining what qualifies for CD loans, there are also wide swings of opinion from one examiner to another as to what qualifies as CRA volunteer activity and what does not. One example of this is that volunteer time spent on community development boards by our employees did not count for credit in 2015, but did count in 2018, and then did not count again in 2021. It is difficult for BFN to accurately focus on CRA if we are receiving mixed messages as to what qualifies from exam to exam.

BFN continues its support of the proposed preapproval process and list of qualifying activities for community development in relation to 2023 CRA rule. By having a preapproval process and list of qualifying activities, efforts can be focused specifically on CRA activities and organizations. The preapproved list will also increase objectivity among examiners who have differing opinions as to what is a qualifying activity and what is not, as noted in our prior CRA examinations.

#### Conclusion

BFN takes pride in being an engine of economic growth by serving our local communities through BFN's mission to "Make Lives Better." However, not rescinding the 2023 CRA rule would result in an expansion of BFN's assessment areas outside of where we typically operate, adding administrative and monetary burdens, limiting the services that BFN offers, ultimately leading to fewer financial betterment opportunities, particularly for those that need it the most.

Thank you again for giving us the opportunity to comment on why the 2023 CRA Modernization rule should be rescinded and the 1995 CRA framework recodified.

Sincerely,



Timothy J. Schneider  
President and CEO



Jeff Langkamp  
Chief Compliance Officer

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