



February 3, 2020

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: RIN 3064-AF22

Dear Mr. Feldman:

After our management team's review and discussion of the proposed updates to the Community Reinvestment Act Regulations, we respectfully submit the following comments.

The proposal would also revise the definition of a "small bank." Under the current regulations, in 2019, a small bank is a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.284 billion, and an intermediate small bank is a small bank that had assets of at least \$321 million as of December 31 of both of the prior two calendar years and assets of less than \$1.284 billion as of December 31 of either of the prior two calendar years. These thresholds are adjusted annually based on changes in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).

Under the proposal, a small bank would be a bank that had assets of \$500 million or less in each of the previous four calendar quarters. Like the current asset-size thresholds, the \$500 million threshold would be adjusted annually based on changes in the CPI-W. Unlike the current CRA regulations, the proposal would not include a separate category for intermediate small banks.

We believe that the small bank threshold should be increased to \$1 billion in assets or less in each of the previous four calendar quarters. Banks in the asset-size range from \$500 million to \$1 billion do not have the same economies of scale and resources to absorb additional compliance costs as those banks with assets greater than \$1 billion in assets. We feel this level better demarcates the difference between small banks and large banks.

Absent this modification, we strongly encourage the consideration of keeping the intermediate small bank category for those banks with assets greater than \$500 million but no more than \$1 billion. A lesser compliance burden should be applied to these banks, similar to the current intermediate small bank category.

Banks evaluated under the small bank performance standards would generally be exempt from the data collection, recordkeeping, and reporting requirements of this proposal. However, these banks would be required to collect and maintain information on retail domestic deposits, based on the physical address of the depositor.

In conjunction with the above, the additional data collection requirements and lack of exemption for many banks currently classified as intermediate small banks will likely be overly burdensome and detrimental to earnings. We support the exemption of small banks from all account-level data collection and reporting requirements in the regulation and encourage the same exemptions be extended for banks with assets of \$1 billion or less.

The agencies plan to publish the illustrative list on their websites and to update the list both on an ongoing basis and through a notice and comment process. Should the list instead be published as an Appendix to the final rule or be otherwise published in the Federal Register? In addition, how often should the list be updated?

We strongly support providing a non-exhaustive list of qualifying activities and nonqualifying activities, with special appreciation of the ability to submit additional activities for the agencies' consideration. We believe such a list would be best published as an Appendix to the final rule. The Appendix format should be easier to update for the agencies without constantly revising the main text of the regulation, will leave the main text of the regulation less cluttered, and will provide a better standalone reference for financial institutions. We believe semiannual or, preferably, quarterly updates, as needed, would best suit financial institutions. Updates need only be considered at such frequency, and if no updates are merited, none need be published. Further, the agencies may reduce the submission of additional activities for their consideration by updating the list more frequently thus communicating new and nontraditional approved activities to all financial institutions.

In addition, under the proposal, the CRA regulations would no longer require that CD services be related to the provision of financial services (i.e., banks would receive credit for all volunteer hours, including manual labor, provided to a CD project). This expansion recognizes that support for a CD project may take many forms, all of which are required for the project to meet the needs of a community, and that all these forms of support should qualify for CRA credit, consistent with the goals of CRA.

We wholeheartedly support the removal of the requirement that CD services be related to the provision of financial services. As a smaller bank located in smaller communities, we have the greatest opportunities to assist our assessment areas with such projects.

Taken together, the proposed changes to how a bank's CRA activity is evaluated would reduce the subjectivity and inconsistencies in the current framework...

The proposed combined objective method for measuring CRA performance and activity in conjunction with the establishment of transparent benchmarks and thresholds would reduce inconsistency and subjectivity in the current CRA framework and could incentivize more CRA activity. For example, by selecting sufficiently high empirical benchmarks for the average CRA evaluation measure—informed by historical performance levels—under the new general

performance standards the agencies could encourage more qualifying activities. The CD lending and investment minimums would recognize the importance of CD activities to serving a community's needs. Similarly, the small bank performance standards would continue to ensure that small banks' lending and lending-related activities are responsive to the needs of their communities. Furthermore, by preserving a role for performance context, the agencies would continue to consider the specific facts and circumstances that affect a bank's CRA capacity and opportunities and account for them through the consistent and transparent exercise of judgment.

In addition, the proposal would account for differences in bank size, location, and business model in several ways. As an initial matter, small banks would continue to be evaluated pursuant to performance standards designed specifically for small banks that consider their lending opportunities and business model. For banks that are not evaluated as small banks, the retail lending distribution test component of the general performance standards would account for bank size, location, and business model in two ways while assessing whether a bank is adequately serving the LMI individuals and areas in its assessment area.

While we support the move to objective criteria for CRA performance evaluation overall, we request that consideration be given to smaller banks in assessment areas with limited CRA opportunities. Specifically, the scenario in which such a bank has received "Outstanding" or "Satisfactory" for all CRA performance ratings historically, but due to the transition to new criteria, could find itself with a substandard rating. We hope that some subjective criteria would be able to recognize that the change in rating was through no fault of the bank's lack of effort, but that the new objective thresholds may not be able to account for that effort. This is not to excuse such a bank from its CRA obligations but encourage that some semblance of a safe harbor transition period be considered so that smaller entities may have reasonable time to adjust to the new framework and criteria.

Sincerely,

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