Foothills Bank
Division of Glacier Bank

March 27, 2020

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

Re: FDIC RIN 3064-AF22 Proposed Changes to Community Reinvestment Act

Dear Mr. Feldman;

I am submitting comments regarding the Notice of Proposed Rulemaking regarding the Community Reinvestment Act. While our bank is in support of some of the changes, we are opposed to several others because they represent a drastic shift from a qualitative evaluation to a quantitative evaluation measure. Dollar amounts certainly are important, but not to the exclusion of the qualitative measurements that demonstrate the impact of the dollars spent on the low and moderate or economically disadvantaged populations we serve.

The discord between the agencies regarding the proposed changes for CRA is disturbing and creates a fragmented CRA environment that could also bring about regulatory chaos for not only the banks, but for those individuals that the CRA regulation was implemented to protect. It is critical for the agencies to be in full agreement of the changes to the CRA regulation before they are implemented.

The proposed changes have many flaws and there are several parts that are not clearly defined. It has been our experience that when interpretation is left up to the judgment or discretion of the examiner, it poses problems for banks. This in turn poses problems for low- and moderate-income individuals and small businesses or small farms because it delays or hampers the banks in understanding clearly what qualifies and what doesn't. Examiner judgment is based on their own personal opinion or experience, which does not always concur with the judgment of other examiners. The proposed changes will include a listing of qualified activities, which is good, but it may not be timely enough to add clarity to an exam. If transparency is the goal of reforming CRA, then leaving judgment up to the subjective option of the examiner will not achieve that goal.

We are concerned with the proposed changes that actually penalize a bank for not having a branch located in a low- or moderate-income census tract. This is an unrealistic approach. We have some instances in our footprint where there are no low- or moderate-income census tracts and others where the low- or moderate-income census tracts are located in a residential area that is not zoned to allow for the construction of a branch. Those circumstances are beyond the bank's control, so why should banks be penalized for not having a branch located in a low- or moderate-income census tract? If the branch is located near a low- and moderate-income census tract and provides good convenience for the low- and moderate-income individuals to access the branch services, hours and products, the bank should not be penalized for not having the branch located directly in a low- or moderate-income census tract. Isn't the real intent and measurement to see whether the bank provides convenient access to low- and moderate-income individuals?

In some of our areas, there are higher pockets of people living below the poverty line, but they live in middle- or upper-income census tracts because those are the only designations of the tracts in those areas. We make concerted efforts to reach those individuals, but we would still be penalized under the proposed changes because we don't have a branch located in a non-existent low- or moderate-income census tract area.

As for the list of qualified activities, that would be extremely helpful, but we question whether the agencies have sufficient staffing to manage such a list on a timely basis, or to answer questions we may have on certain activities in a timely manner. The proposal indicates that this list would be reviewed every 3 years or so, but that may not help when something was on the list but taken off. How will banks receive credit for those activities that were once on the "approved list" but are later not included if revisions to the list fall between exams?

The process for updating of the illustrative list should be consistent across all agencies and should be published on each agency's website, not the Federal Register. Again, our concern is that there would be insufficient staffing and resources to maintain a list relatively current.

Perhaps a formal training program on CRA for CRA Officers and regulators should be considered. Compliance Officers receive training for CRCM or CCBCO titles, but there really isn't a school or program for CRA certification. Sometimes examiners have admitted to us that they are asked to do a CRA exam, but they usually don't get too involved with CRA itself, so they are not up to date on CRA requirements either. There needs to be uniformity with regulators and CRA Officers alike and perhaps a formal schooling or program certification would help address that weakness.

There is an emphasis in the proposal regarding activities in "Indian County". We have many Indian Reservations in our footprint – and we are willing and able to provide assistance to those living on these reservations, but we are hampered by the restrictions of the tribal governments themselves. The reservations are a sovereign territory, and there are restrictions that inhibit our ability to lend. For example, we cannot perfect liens on collateral, if the collateral exists, in the reservation. Foreclosure and repossession are also issues when a loan goes into default. We cannot make the loans unsecured because most of the applicants do not qualify for unsecured credit. Making unsecured loans on the premise that the borrowers live on an Indian Reservation would be a safety and soundness issue because they do not qualify and present a higher risk due to the restrictions imposed by the tribal governments; and it is a discriminatory issue because we don't make unsecured loans to other unqualified minorities just because they need a loan. The only way we can currently serve "Indian Country" is through donations, investments and service activities such as helping them set up their own CDFI and funding the CDFI with EQ2 investments or other donations. We will continue to provide these services – but until we are able to properly perfect liens and take action when loans go into default that would include foreclosure and repossession when no other remedy is available, lending activities cannot be safely conducted. Banks should not be penalized for not lending in "Indian Country" when these conditions exist. We must be able to make loans in a safe and sound manner and have access to the collateral in the event of default.

Our bank prides itself on community service – and we agree that the requirement to provide "financial expertise" in the community service we provide should be removed from the regulation. Many of the activities we do in the community benefit the low- and moderate-income individuals, but we have not been able to count those activities in our CRA exam because they did not lend “financial expertise”. However, building a Habitat for Humanity home and providing the manual labor for that project still benefitted low- and moderate-income individuals.

Additionally, we are heavily involved in helping grade school children learn to read because statistics clearly evidence that if a child cannot read very well by third grade, they fall further and further behind in school and are more likely not to graduate from High School or go on to college. That equates to having low- or moderate-income jobs because they cannot qualify for higher paying jobs. Efforts to *prevent* low- and moderate-income issues, such as teaching children to read, do not currently count in CRA exams because they do not lend “financial expertise”.

We therefore applaud the opportunity to include all activities that impact the economic outcome of the children in our community to help them have higher income and self-sustaining employment opportunity. This would include helping to provide financial support for activities that expose children to technology-based employment. Financial literacy is an important building block for stable communities – regardless of income. Everyone needs to be better prepared for emergencies, learn how to save, learn how to budget, learn how to use credit wisely, and learn how to build their assets and self-sufficiency.

Finally, we do not think all banks are created equally, so one size does not fit all banks over $500 million. Our products and services are different from institution to institution and are tailored to the needs of our communities. Certainly, customers have some similar basic needs, but they also have different needs from area to area. Not every community is the same, and neither is every bank.

Please consider our comments in your proposal for changing CRA. It is imperative that any changes made to CRA remain true to the heart and the letter of the regulation to help the low and moderate income and economically distressed individuals of our communities, regardless of whether they actually live in a low- or moderate-income census tract.

Respectfully,

[redacted]

Brian Riley
President/CEO