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April 8, 2020

submitted via email comments@fdic.gov
Robert E. Feldman, Executive Secretary
Attn: Comments
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: RIN 3064-AF22 – CRA NPR

Mr. Feldman,

Thank you for the opportunity to comment on the Notice of Proposed Rulemaking (NPR) related to the Community Reinvestment Act (CRA).

I agree that it's time to modernize the CRA in order to reflect the way some banks gather deposits outside the footprint of their physical branch networks; present CRA Exam procedures are simply outdated in that regard. And efforts to improve bankers' predictability about whether certain activities will qualify for CRA credit are welcome. I'm grateful to FDIC staff for their time spent on this NPR toward those goals.

I have two deep concerns about this NPR, however – (i) it would de-emphasize banks' innovation and responsiveness to community needs, especially for smaller-dollar transactions, due to its focus on a single metric; and (ii) it has the potential of increasing data collection and recordkeeping requirements on all banks, including many community banks who do not conduct large-scale deposit-gathering efforts outside their physical branch footprints.

The remainder of this comment letter will address both concerns in greater detail.

The NPR would de-emphasize banks' innovation and responsiveness to community needs, especially for smaller-dollar transactions, due to its focus on a single metric.

In the Winter 2009 issue of FDIC's Supervisory Insights, it included a CRA article entitled "Not Just Adding Up the Numbers". It emphasized the CRA's strong focus on qualitative factors, including responsiveness to community needs, flexibility and innovation, without quantity and dollar volume as the primary consideration. If the NPR is adopted in its present form, it will require wholesale changes to that philosophy, which I believe would be misguided. And when the article is then re-written, the title can be the same… so long as you strike the word "Not".

I'll provide two personal anecdotes to make my point, one from 20+ years ago, and one from this past weekend.

In the 1990's I was a young commercial loan officer at a community bank called The Bank of Gloucester County. We unfortunately had to foreclose on a single-family dwelling in Woodbury, New Jersey, located in a moderate-income census tract. After taking ownership of that property at Sheriff's Sale, we decided to seek the best, most innovative, most community-friendly way of disposing of the property. *We did so after careful consideration of the CRA benefits of such an approach.* What resulted was a special-purpose investment entity the bank created, in partnership with a local Community Housing Development Organization, to rehabilitate the property, then rent it as affordable housing to a low-income tenant. The neighborhood benefitted, as did that tenant who wound up in safe, clean, affordable housing. But we had to put many, many hours, and a not-small amount of legal expense, into that effort. As I recall, the total amount of our investment was less than $100,000. There's no way the size of that transaction was justified from a financial perspective - the amount of effort and cost we sunk into the creation of that special purpose entity was disproportionate to its size. However, we did it because the CRA guidance in place then (and now) emphasized innovation and responsiveness to community needs, not merely quantity. *Under this NPR, if those same facts were presented to me again, I would likely be compelled to make a different decision, because a sub-$100,000 transaction would amount to a mere rounding error as a percentage of my bank's deposits.*

Now to my very current example: Over the last 10 days we, like bankers across the country, have been scrambling to implement the Paycheck Protection Program (PPP). We know this program will have beneficial CRA considerations for us as we assist local small businesses and non-profits in their time of crisis. One decision we made early on was that we would accept and process PPP applications in the order we received them. We did <u>not</u> dollar-size-rank them. The first loan we submitted to the SBA E-Tran portal this past Saturday was a small, $31,000 PPP loan to a hair salon operator in Bridgeton, New Jersey, whose business is reeling from the COVID-19 crisis, since she was ordered to shut down. I'm proud that we took that position. I'm proud that we're helping the smallest of small businesses, and that hers was the first loan we submitted to the SBA. But here's the thing: If this NPR were adopted before this present crisis hit, the *rational* thing would have been for us to dollar-size-rank the applications we got, or somehow fast-track our biggest customers, thereby moving the needle on our CRA single-metric. I don't think that doing so would have been good public policy. *But frankly, if we were already subject to this NPR, I would have felt compelled to use our bank's finite resources to process the largest PPP applications first, before the money ran out, thereby ensuring that we made maximum impact on our CRA metric, and only getting to the smallest PPP applications later… and maybe never.*

The quote that comes to mind is "Tell me how you measure me, and I will tell you how I will behave."[1] You should assume that bankers *will respond rationally* to any new CRA rules that are adopted. In the NPR's present form, I believe that would result in every banker chasing the largest CRA-rich transactions - the needle-movers - and forsaking the smaller ones, because they'd be inconsequential to hitting the metric. The largest projects will be the winners, and the smallest, the losers. I suggest that FDIC leadership needs to ask themselves if that's the policy outcome they want... because that's the outcome that I'm convinced will result under the current proposal.

<u>The NPR has the potential of increasing data collection and recordkeeping requirements on all banks, including many community banks who do not conduct large-scale deposit gathering efforts outside their physical branch footprints.</u>

My last comment will be briefer. As margins continue to be compressed in our industry, the last thing we community bankers can afford is greater overhead burden. So, I ask that, for community banks at least, the record-keeping burden on proving depositor location be easy. I hope it's as simple as a depositor ZIP Code report that our core processor can easily run. What I implore you to do is *not* make it a rigid, multi-field, HMDA-like data process, where we have burdensome checking (and double - checking) requirements and are subject to penalties for errors.

Thank you for the opportunity to comment on this NPR and for FDIC staff's work on it.

Sincerely,
CENTURY SAVINGS BANK

[redacted]

David J. Hanrahan
President

cc: Mark Pearce, Director, Division of Depositor and Consumer Protection, FDIC – via email

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[1] Eliyaho M. Goldratt