

FDIC

Re: RIN 3064-AF22

Thank you for allowing me to comment on the proposed CRA regulation.

I am the CRA Officer, among other roles, at a community bank (about \$800M) that has been in existence for over 100 years. As a community bank, our employees live in the communities we serve. Our customers see us at the Post Office, at the grocery store, and at local sporting events. They are our neighbors. Our employees serve on town councils and school boards, and are members of community service groups, such as Rotary, Lions, Kiwanas, and others. Our employees volunteer thousands of hours every year to serve on Boards, to assist at community events, and to serve those in need, whether it is helping out at a food pantry or preparing a meal for those who are struggling. Our bank and our employees have been invested in our communities for over 100 years now.

While I do find some good in this proposal, there are many things that concern me and feel would have a negative impact on a community bank such as ours.

First of all, I question the extensive rewrite and wonder if it is necessary to go to the extent it does. As CRA Officer I do read some of the exam findings when they are published. I always read the exams of the banks that received failing ratings to make sure our bank is not doing anything that could cause us to get a failing rating. If I have time, I may also read the exams of banks that received Outstanding ratings to see what they are doing right. One thing I have noticed over the years is there are far more banks that receive passing ratings than failing ratings, leading me to believe that on the whole, banks are currently succeeding in the mission of CRA in meeting the credit needs of their entire community, including LMI neighborhoods and individuals. Those that do not have passing ratings tend to show a history of failing ratings, and raising the bar and requiring more from banks will not assist those banks in achieving a passing rating, but does penalize the banks that are already doing what they should under CRA.

According to the preamble, one of the most frequently raised issues during the review process was the need for clarity regarding performance measures and better training to ensure consistency and rigor in CRA examinations. I believe that this issue could have been resolved without the extensive rewrite of the regulation. Many banks have voiced frustration over different exam teams coming to different decisions on whether an activity or service or loan counted for CRA credit. Consistent training for the examiners so that everyone is on the same page would go long way toward reducing the uncertainty banks feel when approaching CRA. Likewise the need for clarity regarding performance measures. In the current CRA regulation there is no benchmark for performance. All banks know there is a 'magic number' they need to meet to pass, but it apparently is a deep, dark secret because it is not published, nor will examiners talk about it. It can be

estimated by reading banks' CRA exams, but there is still a lot of uncertainty. Rather than throw everything out and create a whole new set of complex calculations, this could be resolved very simply by letting banks know what the 'magic number' is for the various tests under CRA.

Another issue that was frequently raised was the regulatory burdens associated with the recordkeeping and reporting requirements. This proposal increases the burden exponentially for many banks such as ours. We have no CRA Department and our CRA team is drawn from various departments. Team members have other job duties relating to their department. The increased information gathering, record retention, calculations, and reporting requirements would strain our current team's limits. So in addition to purchasing and maintaining software to do the required reporting, the bank would need to hire more employees to run the reports, input the information into the software, verify the information that is input, do the calculations, and do the reporting. And this is not a clerical function; this would require specialized knowledge and a specific skill set, which would command higher wages than a clerk. So the increased burden could also become expensive for community banks such as ours.

I have not commented on all the questions posed by the proposal; however I have answered some that I feel would impact our bank.

- 1. Are the proposed criteria for determining which activities would qualify for credit under the CRA sufficiently clear and consistent with the CRA's objective of encouraging banks to conduct CRA activities in the communities they serve?*
Many of the criteria are already in the current rule. Clarity would come with consistent training and illustrative examples of what counts for CRA and why or why not, not just a list of 'this counts'. The expansion of underserved and distressed areas in MSAs and MDs is a good one, as large cities and urban areas also have problem areas. Designating these as distressed/underserved would allow banks to receive CRA credit for more investments in these areas. The change that the CD services no longer be tied to the provision of financial services is also good. It never made sense to me that our employees could prepare meals for shelters or spend a weekend building houses for an organization such as Habitat for Humanity and we could not receive CRA credit for it. Converting the hours to a dollar value I am not so sure of. See response to question #9. I am also not sure why community banks that sell on the secondary market are being discouraged from doing so. As a community bank, we do sell some loans on the secondary market. This means that we can be competitive in our market area in offering lower rates to qualified borrowers. Selling on the secondary market still means someone got a home (!) and also allows our bank to make more loans. As a community bank, we retain the servicing of these loans, meaning that our customers still come to us if they have questions or issues on their loan; we don't send them off to deal with some bank in a different part of the country.

4. Under the proposal, the small business and small farm revenue thresholds and the size thresholds for a small loan to a business and a small loan to a farm would increase to \$2 million. Do these increases appropriately incentivize banks to engage in small business and small farm lending activities, or should other changes be made to the revenue and loan size thresholds?

The change in amount would certainly allow us to count more loans for CRA, which would be welcome, especially if the agencies are going to require more of banks. As a community bank, we already lend to businesses and farms of all sizes in our communities; we would continue to lend to small businesses and small farms in our area.

5. 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?

I am not convinced a list would accomplish what the agencies are trying to do. If I have a list of 'approved' activities that is what I am going to stick to. It may be more useful to provide illustrative examples and explain why (or why not) it would be considered for CRA credit.

6. The proposal includes a process for updating the illustrative list on an ongoing basis through submission of a form to seek agency confirmation. The agencies considered an alternative process where an agency would accept all requests from banks for confirmation that an activity is a qualifying activity, aggregate these requests, publish the list of requested items in the Federal Register for public comment and feedback, and update the list following this process once every six months. What process, including any alternative process, should the agencies adopt to update the illustrative list of qualifying activities?

First of all, as mentioned above, I don't believe a list of approved activities that is already in the regulation is going to help. What you are apt to get are very specific questions from banks, such as the bank has an opportunity to do this and if we do, will we get CRA credit for it. Six months is a long time to wait for an answer; the bank will have already done the deal and hoped for CRA credit or passed on the deal because of the uncertainty. Consistent training for examiners and illustrative examples of why or why not an activity would be considered for CRA credit would be more useful.

7. Are certain types of retail loans more valuable to LMI individuals and geographies than other types? If so, which types? Should the regulations recognize those differences? If so, how? For example, could multipliers be used

to recognize those differences and provide incentives for banks to engage in activities that are scarce but highly needed?

I am sure there would be some loans that would be more valuable to LMI individuals, for example, small dollar loans, especially for someone who might be living paycheck to paycheck. But regulations and paperwork and red tape on small dollar loans make it a no-win for some community banks, especially if even more paperwork and reporting requirements are needed for CRA credit. Vehicle loans might be another type of loan that would be valuable to LMI individuals in rural areas, but again, the increased work for CRA credit might be more effort than it is worth for some community banks. I am sure there are others, but the question is, with additional reporting and recordkeeping requirements, will it be worthwhile for a community bank to offer those types of loans.

9. The proposal quantifies the value of CD services based on the compensation for the type of work engaged in by the employees providing the services as reflected in the Bureau of Labor Statistics calculation of the hourly wage for that type of work. Alternatively, CD services could be valued based on a standardized compensation value for the banking industry or occupation type. For example, the median hourly compensation value for the banking industry is approximately \$36, when calculated using Bureau of Labor Statistics data. Would using standardized compensation values reduce the burden associated with tracking CD services while still appropriately valuing CD services? If so, how should the agencies establish the standardized compensation values?

It would certainly reduce the burden to have a single dollar amount. It would be very time-consuming for an employee to figure out what a comparable occupation might be and to determine what the hourly compensation would be. And would the examiners be able to say no, that is not a comparable occupation and make the bank do the research and calculations again? What is a comparable occupation for someone who volunteers at a soup kitchen and not only cooks, but serves the people and cleans up afterward? As far as establishing a standardized compensation value, what is volunteering at a soup kitchen worth to the community or the people it serves? What is delivering bags of food to an LMI family worth to that family? If you want to attach a dollar value, maybe you should be looking at the value of the service to the community and the people in that community.

11. Are the proposed methods for delineating assessment areas clear, simple, and transparent?

Yes, they are clear, simple, and transparent; however, under the current rule, a bank can set an assessment area as the area it is reasonably expected to serve. One of our assessment areas includes the largest county east of the Mississippi. How would a new bank moving into the area be assessed if they had to take the whole county and are really only able to serve just a small area of the county? Likewise, we are trying to expand our presence into more urban areas of the state. If we open one branch on

the edge of a county but have to take the whole county as our assessment area, how is that going to affect our presumptive performance rating for that area? We are competing against large, national banks as well as other financial institutions in an area with many financial choices. So if we only have a small share of loans in that county do we fail in that assessment area and therefore fail in our presumptive rating? The presumptive rating does not make any provision for context in the rating. Or are we expected to make more risky loans, contrary to safe and sound banking principles, in order to get a passing rating?

12. The proposal would allow banks to choose how broadly to delineate their facility-based assessment areas, but it would require banks with a significant portion, such as 50 percent or more, of their retail domestic deposits outside of their facility-based assessment areas to delineate their deposit-based assessment areas at the smallest geographic area where they receive five percent or more of their retail domestic deposits. The requirement to designate deposit-based assessment areas would impact Internet banks that do not rely on branches or ATM facilities to collect deposits as well as traditional banks that, in addition to their branches and ATM facilities, collect a significant portion of their deposits online outside of their branch and ATM footprint. Do these approaches strike the right balance between allowing flexibility and ensuring that banks serve their communities? If not 50 percent, what threshold should be used to determine if a bank has a significant portion of its deposits outside of its facility-based assessment areas and why? In addition, is receiving at least five percent of domestic retail deposits from a given area the appropriate threshold for requiring a bank to delineate a deposit-based assessment in that area, or should some other threshold be implemented? If so, why?

First of all, the proposal does not allow banks to choose how broadly to delineate their facility-based assessment areas as the proposal states the minimum allowed is a county. I also understand the concept driving the ‘deposit based assessment area’, but it is also my understanding that this will only affect a very small percentage of banks. What I don’t understand is, if this only affects a very small percentage of banks, why it requires all banks to go through exercise of geocoding their deposit accounts. This just seems to be adding to the expense, time, and regulatory burden for community banks.

19. Under the proposal, small banks (i.e., banks with \$500 million or less in assets in each of the previous four calendar quarters) may choose to exercise an opt into and a one-time opt out of the general performance standards. Should small banks that opt in to the general performance standards be permitted to opt out and be examined under the small bank performance standards for future evaluations and, if so, how frequently should this be permitted?

This is an interesting question. I think back to the agencies guidance on overdrafts and that the agencies believe customers should be able to opt in and opt out of

overdraft fees as often as they want. As this is shaping up to be a costly and burdensome proposal for small banks and community banks, I would say let small banks opt in and opt out as often as they want.

21. What burdens, if any, would be added by the proposed data collection, recordkeeping, and reporting requirements?

I believe many community banks, including ours, would have additional burdens besides system changes. Staff adds, just for CRA, would be one, and as noted above, not just any staff adds. These would need to be employees with specific knowledge and skill sets. Additional reports to gather required data would need to be run, scrubbed, input into reporting software, and retained. It would certainly speed up the agencies' ability to issue timely reports, but that is because the banks would be doing all the work.

a. What system changes would be needed to implement these requirements?

First and foremost, new software. Which, by the way, makes this the only regulation that will require some banks to purchase software in order to comply. Even with all the changes in HMDA, the BCFP provided software for free for banks to use in the increased reporting requirements.

b. What are the estimated costs of implementing these requirements?

Difficult to estimate since software vendors, knowing banks will need the software, would be free to charge whatever they want, not only for implementation but also for ongoing maintenance and future upgrades. Staff adds are also difficult to estimate as it is unknown at this time how many employees would be needed in a newly created CRA department, which would be needed to comply with the increased reporting burdens.

In conclusion, I would have to say that this proposal still needs a lot of work if the agencies insist that CRA needs to be completely rewritten. And as the proposal requires more investments from banks which are apparently already meeting the needs of their communities, I would remind the agencies that banks are businesses also and as such, do not have infinite resources, especially small and community banks. If community groups and organizations believe more assistance is needed, I respectfully suggest that they go to Congress and demand that credit unions be subject to CRA. After all, if credit unions can spend millions of dollars on naming rights to stadiums and buying otherwise tax-paying businesses (thereby making them tax-exempt and pulling more revenue from communities), just think how much they could invest in their local communities if they were actually subject to CRA.

Sincerely,

Susan B Lunn

CRA Officer, Katahdin Trust Company