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Via Electronic Submission

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

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

RE: Reform of the Community Reinvestment Act; Docket ID OCC-2018-0008; FDIC RIN 3064-AF22

To Whom it May Concern:

The National Cooperative Bank (NCB) respectfully submits the enclosed comments in response to the Notice of Proposed Rulemaking (NPR) published in the Federal Register on January 9, 2020 on reform of the Community Reinvestment Act (CRA).

About the National Cooperative Bank (NCB)

Created by the National Consumer Cooperative Bank Act (Public Law 95-351) by the 95th Congress on August 20, 1978, NCB provides comprehensive banking products and financial services nationwide to member-owned, member-driven organizations. NCB has $2.695 billion in total assets with $8 billion+ under management (when combined with assets managed for investors). Our primary federal regulator is the OCC.

In accordance with our enabling legislation, NCB has an uncommon mandate to ensure our efforts benefit those most in need, supporting low- and moderate-income (LMI) communities and cooperative expansion initiatives. The employment of the cooperative model in the development of business, access to affordable health care and affordable housing is critical for LMI Americans and strengthens communities in both urban and rural areas. As a Bank chartered to support cooperative organizations nationwide, NCB's commitment to community is extensive. To date, we have provided more than $6.0 billion in specialized lending, investments, and technical assistance to support LMI families and communities.

NCB's customers are cooperatives, such as grocery wholesaler co-ops, purchasing co-ops, credit unions or housing co-ops. Other customers share in the spirit of cooperation, driven by democratic organizing principles. They may be Alaska and Native American enterprises, which by their very nature, are member-run and member-owned. Others may be community facilities, driven entirely by community needs. What they all have in common is a single fundamental principle – they have joined cooperatively to meet personal, social, and/or business needs.

While NCB takes great pride in its community development and cooperative expansion work within LMI communities, CRA regulation and supervision has become overly complex, unpredictable, and has not kept up with the way the consumers expect to use technology to access financial products and services today. The need to update CRA has existed for years and will grow more pressing as technology and innovation within the financial services industry continues to evolve.

As the CRA modernization process moves forward, NCB strongly encourages the continuation of the pursuit of an interagency final rule. Failure to act in coordination would yield undesirable results—including perpetuating confusion and inconsistency—which would be contrary to the objectives of the rulemaking and would undermine the longevity of any final rule.

Further Study and Extensive Revision for Proposed Performance Measures

Overview. While we support the agencies efforts to establish quantifiable CRA performance metrics, we have serious concerns regarding the proposed performance measures and request that the OCC and the FDIC refrain from finalizing this aspect of the proposal pending further study and testing. Next steps could include: Forming an interagency taskforce of regulators and bankers with specialized, in-depth expertise in bank data systems, CRA regulations and reporting, and call reporting to develop CRA data reporting requirements that support a more objective regulatory framework while (1) taking into account the diversity in the U.S. banking system and (2) working to minimize unnecessary data costs (both initial and ongoing) on banks.

Volunteer service. Requiring banks to monetize community development services for purposes of computing the CRA Evaluation Measure would be laborious, would not recognize the intrinsic value of such service, and could result in banks reducing volunteerism. Instead, the agencies should incorporate volunteer service into the institution's performance context.

CRA Ratings

The agencies should clarify how the bank-level rating would be determined. Please provide examples.

Define "significant." A bank could not receive a Satisfactory or an Outstanding unless it also received that rating in a significant portion of its Assessment Areas and in those Assessment Areas where it holds a significant amount of deposits. What is a significant portion of Assessment Areas? What is a significant amount of deposits? For example, for a presumptive rating of Outstanding, would the Assessment Areas where a bank holds a significant portion of deposits must be ordered according to the percentage of deposits that each Assessment Area contains? In other words, would those with the highest percentage of a significant amount of deposits be counted first? Or, could any combination of Assessment Areas that have an Outstanding rating and in total hold a significant amount of deposits suffice?

Data Collection and Reporting Requirements

The proposal is not compatible with the way bank data systems are structured.

The proposal does not recognize that the required data generally do not reside in a single system within a bank. Some of the required data resides in core systems; other data may be in loan origination and servicing systems, and most banks have multiple loan origination systems for different products. Similarly, banks typically use different systems to service different types of loans. None of these systems are integrated, requiring hours of labor to identify and extract data and combine it in a single report or file

Banks' systems are not set up to retain loan-level information in monthly and quarterly intervals. The proposal would be costly—on both an initial and an ongoing basis. The agencies did not provide an estimate of the one-time costs of the data collection burden. The agencies did not provide detail on how they arrived at the hours and dollar figures for ongoing recordkeeping and data collection.

We are concerned about the burden to collect and maintain the requisite detail on qualifying loans, investments, and services. The creation of a "CRA Qualified" flag in a bank's core system will not address the primary burden associated with the proposed data collection requirements. In addition, loan officers do not have the requisite knowledge to flag activities as qualifying; compliance and audit staff will have to verify that each flagged activity is a qualifying activity.

Assessment Areas

Analyze proposed revisions to the Assessment Area concept in conjunction with the proposed performance evaluation measures. Each of these potential reforms is important and would entail significant change in the way that banks administer and are evaluated on their CRA programs. However, together, sweeping changes to Assessment Areas and the adoption of CRA benchmarks would revolutionize CRA regulation. Regulators should evaluate the combined impact that these reforms would have on banks and communities.

The CRA Examination, as it exists, does not take into account the kind of unique business model that we have with a great majority of mission-related lending taking place outside of our CRA Assessment Area. NCB encourages the regulators to make revisions to the Assessment Area framework as they have become too rigid and outdated. Branches are one means by which banks generate deposits, but they are no longer the only means.

At one time, branches were the predominant delivery channel through which banks provided products and services. While branches will continue to play a role, they are and will be a channel, not the only channel through which customers conduct banking business. In addition, the advancements in technology and innovation since 1977 have enabled banks to expand their business beyond a limited geographic location.

Headquartered in the District of Columbia, NCB's Assessment Area is primarily Highland County, OH (one branch located in Hillsboro, OH) only with a few exceptions. Per the United States Census Bureau, Highland County has a population of 42,971 (2017 population estimate) with a median household in (in 2016 dollars), 2012-2016 of $40,593. The branch allows NCB to offer depository services to its customer base on a nationwide basis and other financial products. NCB made loans and investments in LMI communities of $352 million in 2019 alone. A change in Assessment Area framework could allow NCB to broaden its CRA geographic footprint.

Specific Activities

Workforce Development and Job Creation. Banks should continue to receive community development credit for (1) financing small businesses that promote job creation, retention, and/or improvement for LMI people and communities, and (2) by financing intermediaries that invest in or lend to start-ups or recently formed small businesses. These "economic development" provisions should be added back into the proposal in their entirety, both in the text of the regulation and to the list of qualifying activities.

Disaster Areas. We support the proposal's inclusion of disaster areas in the inclusion of qualified CRA activities. Under the proposed rule, banks would receive CRA credit for loans, investments, and services involving essential infrastructure and essential community facilities that benefit or service disaster areas consistent with a disaster recovery plan.

Financial Literacy. Financial education programs and homebuyer counseling would be considered qualifying activities under the proposed CRA regulation. We strongly agree with this approach. All financial literacy initiatives should receive CRA credit; credit should not be limited to providing financial education to LMI individuals or schools where more than 50% of students qualify for free or reduced-price meals. In addition, banks should receive credit for creating financial education materials, whether in print or digital form.

Activities with CDFIs and MDIs. NCB strongly supports the addition of activities with a CDFI as an explicit qualified activity. With this change, CDFI banks seeking CRA-motivated deposits and investments will be empowered to collaborate with other banks located throughout the United States regardless of whether they have overlapping Assessment Areas. We recommend modifying the proposed language to include "capital investment, deposits, loans, loan participations, other financial and nonfinancial support, or other venture undertaken…" We believe this will eliminate any ambiguity with examiners that the full range of bank support to CDFIs is a qualified activity

Indian Country. We suggest broadening the definition of Indian Country to include anything that is working with a tribal housing authority (e.g., LOC to tribal housing authority). In addition, the agencies should clarify whether the definition being used for "Indian Country" includes lands NOT in reservation and no longer in a state of original allotment? In other words, does the term "Indian Country" include those lands that were once the boundaries of the native nations even if such lands were not technically "reservations" or allotment?

Public Welfare Investments. With the change in the term "qualified investment" to "community development investment," it appears the NPR would expand the range of investments eligible for CRA credit to encompass investments that would not be permitted as a public welfare investment. If the term "community development investment" is finalized as proposed, the regulations governing public welfare investments would then need to be amended by, perhaps, replacing the current cross-reference to "qualified investment" with a reference to "community development investment."

Summary

Since its enactment by the United States Congress in 1977, CRA has worked to address disinvestment and redlining. However, the time has come for improvements in clarity, transparency and predictability around the CRA examination. We thank you for your consideration for the improvements outlined in this letter. CRA remains vital to the community development in LMI communities. Again, as the CRA modernization process moves forward, NCB strongly encourages the need for interagency coordination between the OCC, FDIC and The Federal Reserve System.

Please contact me at csnyder@ncb.coop if you have any questions.

Cooperatively,

[redacted]

Charles E. Snyder
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National Cooperative Bank