Frost

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BY ELECTRONIC MAIL (cra.reg@occ.treas.gov / comments@fdic.gov)

Chief Counsel's Office
Attn: Comments 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: Community Reinvestment Act Regulations
Docket ID OCC-2018-0008
FDIC RIN3064-AF22

To Whom It May Concern:

Frost Bank ("Frost"), a Texas state bank, is pleased to submit comments in response to the Office of the Comptroller of the Currency ("OCC") and Federal Deposit Insurance Corporation's ("FDIC") Notice of Proposed Rulemaking ("NPR") titled "COMMUNITY REINVESTMENT ACT REGULATION." While Frost's prudential regulatory agency for the Community Reinvestment Act ("CRA") is the Federal Reserve Bank of Dallas ("FRB"), we believe it is critically important that consistency in interpretation and enforcement be maintained among all CRA prudential regulators, and encourage the three prudential regulators to work together to promulgate substantially similar rules.

Frost is currently celebrating 152 years of giving customers a square deal, keeping their assets safe and sound, and demonstrating that everyone is significant. Frost's very strong corporate culture is driven by three core values: Integrity, Caring and Excellence. At Frost, we direct these core values toward each other, our employees, our customers, our shareholders and our communities. Serving all segments of our communities and making people's lives better are integral parts of the overall philosophy of Frost.

Frost is committed to the well-being of our communities and supports the goals of CRA. We believe banks have an affirmative obligation to help meet the credit needs of their communities, including low- and moderate-income ("LMI") areas, consistent with safe and sound banking practices. With this in mind, we feel that the rating system contemplated by the NPR, in which essentially the same single metric forms the basis of a bank's assessment area and overall ratings, does not fit every bank's model and philosophy. Hence, there is a need for flexibility to recognize those differences in evaluating the bank's strategy of fulfilling community needs.

Accordingly, performance context must continue to be an important part of the CRA exam. As Governor Lael Brainard of the Federal Reserve Board stated during a speech at the Urban Institute in Washington, D.C. on January 8, 2020, "[r]evisions to the CRA regulations should reflect the credit needs of local communities and work consistently through the business cycle. They should be tailored to banks of different sizes and business strategies." For community banks, performance context plays an essential role in accomplishing Governor Brainard's objective by providing an opportunity for a bank to "tell its story" about how it assesses and serves community needs and the unique challenges involved.

We applaud efforts by the OCC and FDIC to streamline and improve the CRA regulation since the last significant revision to CRA regulations was made in 1995. While there remain--in our opinion--numerous ambiguities and a lack of consistency in interpretation in the NPR, we commend efforts to:

- Provide clarity, consistency and transparency regarding what counts for CRA consideration, where it counts, and how it counts;
- Develop and publish a list of CRA activities that will receive consideration and create a system for advanced approval by regulators of contemplated activities;
- Create objective and presumptive ratings; and
- Modernize CRA.

Concerns on NPR's Approach:

While Frost is regulated by FRB and thus not technically subject to the OCC/FDIC NPR, we urge the regulator--all three--to work together to formulate a single approach to CRA compliance. Frost is therefore providing its views to all three agencies in the hope that they will join together to promulgate substantially similar rules.

Consumer Loans

Currently, financial institutions have the option of reporting their full retail portfolio in CRA exams. ***We firmly believe retail loan portfolio reporting should remain optional***. Historically, non-HMDA consumer loans have not been subjected to the same data collection requirements as HMDA or small business loans. For the below reasons, the reporting of non-HMDA consumer loans should remain optional:

- Income may not be used or collected on these loans because income is not required for all extensions of credit—it depends on the product.
- Banks do not generally geocode retail loans, and physical addresses on retail loans may not always be available. The NPR does not clearly state whether consumer portfolios would need to adhere to the new rules from a going-forward or look-back perspective. Either way, operational changes would have to be made, along with tremendous system and potential customer file updates, thereby creating an enormous burden and significant costs to financial institutions in a relatively short amount of time.
- Counting retail loans may create a misleading result when assessing the impact of a bank's CRA activity on its community. Home mortgages, small business and small farm loans should be more highly regarded than consumer loans, as they are generally more

important for serving LMI needs. But when evaluating a bank from a purely numeric standpoint that evaluates product mix uniformly across a portfolio, the value measurement of a bank's home mortgage, small business, and small farm loans may become obscured by its consumer lending.

- It is imprudent to apply a borrower distribution test for retail lending product lines that evaluates a bank against set thresholds based on historic data:
    - Thresholds should be tested with the inclusion of the retail portfolio. However, it is unlikely this can be done accurately, since data needed to do an accurate analysis (which would be for past years) is not available.
    - Thresholds should be revisited after analysis and further tailored to each individual bank's product mix and banking model.
    - Achieving the thresholds in a majority of assessment areas ("AAs") may prove difficult depending on the AA. Additionally, CRA activities should not be measured equally across all communities, because markets are different in terms of income distribution and economics, and needs vary from community to community.

Metric System
In contemplating a metric-based system for CRA, Frost urges the prudential regulators to consider the below points. New metrics will impact financial institutions' operations, systems, people, and CRA strategies tremendously. And, as previously mentioned, differences in financial institutions' business models are not currently factored into the NPR which could produce a metric that does not fairly evaluate each banks CRA programs.

- Using balance sheet-based metrics for retail lending creates issues on many levels, such as the need for unavailable or outdated historical data, as well as the allocation of activities for LMI individuals into broad balance-sheet based categories. ***We believe the current focus on activity based on bank originations should not be changed to focus on balance sheet-based activity. Likewise, the current measure of units is the accurate and fair measurement for loan activity, without adding dollar amount metrics.*** Not all loans are the same, and the CRA value of a loan should not be measured solely by its dollar amount. Assessing banks based on the dollar values of loans, rather than unit basis of originations, also comparatively disincentivizes the small dollar loans that often serve LMI individuals. And further, the dollar amounts of all such loans vary geographically—banks with AAs with the highest cost of living will necessarily produce higher dollar amounts of loans. Frost is not a mortgage bank, and should not be comparatively disadvantaged for CRA performance in relation to other banks based on its product mix and geographic locations.
- In addition, mandating geocoding for all depository accounts could be a tremendous undertaking for the same reason as outlined above for geocoding of retail loans. The increased cost and effort required for such an undertaking could divert resources that banks could otherwise direct toward meeting CRA goals otherwise.
- The 2% minimum threshold for community development ("CD") loans and investment--not only overall, but in the majority of AAs--in order to obtain an outstanding or satisfactory rating should be revisited. CD opportunities are not consistently available in all AAs, or annually, and often the limited opportunities produce competitions among financial institutions.
    - The current measure of dollar-for-dollar credit for CD loans and investments is the appropriate measure of a bank's activity. Using the "average month-end on-balance sheet dollar value" does not adequately reflect the true CD activity of a financial institution during an exam cycle.

   - Credit line loans that serve CRA purposes that are annually renewed should continue to be evaluated as they are currently, *i.e.*, full value for the renewed amount.
   - Prior period investments that still remain on the books should continue to be valued based on the book value of the last calendar year of an exam cycle.
   - Mortgage-backed securities (consisting of loans to LMI borrowers) should be valued the same way as other CD investments, including municipal bonds, which benefit LMI communities. These instruments provide liquidity and economic development opportunities that LMI individuals/communities might not otherwise have.
- Frost's CD Services are a substantial part of our CRA program. We pride ourselves on being recognized in our FRB Performance Evaluations as "a leader in the community development" space. We are a hands-on partner in our communities, working to be a part of their solutions and not simply providing funds. Assigning an hourly value on a banker's time volunteered does not accurately demonstrate the full value of not only the time, but of the effort and true impact of the activity.
   - The prudential regulators continue to stress the importance of financial education and working towards providing banking services and opportunities that enable people to become self-sufficient. To help achieve this goal, Frost has learned that face-to-face instruction can be very effective. Changing financial behavior is learned, and many times individuals need one-on-one personal instruction to help them understand given their level of financial knowledge. Simply providing materials may be less impactful to an LMI individual, from a resource and understanding perspective. This is Frost's niche and we would hate to see it be devalued, or for communities to suffer from a lack of this type of activity.
- The FRB has stated they are on board with "metrics that make sense" and we hope the other regulatory bodies will fully embrace that idea. We agree with the statements made by the FRB that a metrics approach should take into account different business strategies, bank sizes, and local and cyclical conditions, which are very important to banks of our size and smaller.

List of Qualifying Activities
Frost welcomes the creation of a non-exhaustive "List of Qualifying Activities" for CRA consideration. We would also welcome the chance to submit potential initiatives to prudential regulators on a real-time basis for quick feedback/approval prior to entering into such ventures. However, a six-month turnaround is too long and good community activities may be missed. Monthly communication would be welcomed and more useful.

Recordkeeping and Reporting
The regulatory burden in terms of systems, operational processes, staffing, costs and time is significant, not only for CRA staff, but many other areas of the bank. The addition of the monthly and quarterly record collection obligations make these efforts extremely burdensome, especially in the timelines presented. As previously mentioned, the potential updates to our systems and customer records would be a substantial undertaking which could not be completed within the timelines stated in the NPR.

While we would like to see CRA reform, we do not want to risk diminishing CRA's overall purpose of ensuring that banks continue to meet their obligation to help serve the needs of their entire communities, including LMI individuals and areas, subject to safe and sound banking practices.

We appreciate the opportunity to provide our comments for consideration by all three prudential regulators. Please contact me at (210) 220-4851, with any questions or for further information regarding the contents of this letter.

Sincerely yours,

[redacted]

Donna C. Normandin
Senior Vice President & CRA Officer

cc: Board of Governors of the Federal Reserve System
Charles Cooper, Commissioner, Texas Department of Banking
Robert L. Triplett, III, Senior Vice President, Federal Reserve Bank of Dallas