LouisianaBankers
ASSOCIATION

August 5, 2022

James P. Sheesley
Assistant Executive Secretary
Attention: Comments RIN 3064- AF81
Federal Deposit Insurance Corporation
550 17th Street, NW,
Washington, DC 20429

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

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

RE: COMMUNITY REINVESTMENT ACT REGULATIONS [RIN 3064-AF81; DOCKET ID OCC-2022-0002, RIN 1557-AF15; DOCKET NO. R–1769, RIN 7100–AG29]

Dear Sir or Madam,

The Louisiana Bankers Association (LBA) appreciates the opportunity to provide feedback in response to the Federal Deposit Insurance Corporation's, Office of the Comptroller of the Currency's, and Board of Governors of the Federal Reserve System's (collectively, the agencies) Notice of Proposed Rulemaking (NPR) proposing a modernized Community Reinvestment Act (CRA) regulatory and supervisory framework. The LBA is the only banker's association in the state of Louisiana and made up of 117 member banks and thrifts. The vast majority of our members are Louisiana-domiciled community banks.

The CRA was enacted in 1977 for the purpose of combatting redlining and ensuring that banks, consistent with safe and sound lending practices, meet the financial services needs of low- and moderate-income (LMI) customers in the communities where they do business. For community banks, community reinvestment is at the core of their business model because their financial success or failure is tied to the economic prosperity of the communities they serve.

LBA understands the goal of updating the CRA regulatory framework to reflect technology's transformation of the delivery of financial products and services. There is consensus that the agencies need to ensure that CRA expectations are transparent and that examiners interpret and apply CRA regulations consistently.

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We support these objectives, and anticipate that several aspects of the proposed rule would make progress in those areas. In particular, we support the provisions that will give banks greater certainty regarding the activities that will receive credit, allowing them to concentrate their efforts on providing the products and services that will address community needs instead of spending time and resources trying to figure out what will count.

However, other elements of the proposal are concerning and those areas of concern are clearly detailed in comment letters submitted by the American Bankers Association (ABA) and the Independent Community Bankers of America (ICBA). The LBA is affiliated with both the ABA and the ICBA and we urge you to strongly consider their comments and recommendations.

The following are LBA's specific comments:

Significantly Increase Asset Thresholds and Ability to Opt-In:
LBA urges the agencies to significantly increase both the small bank threshold and the intermediate bank threshold.

Increasing asset thresholds is particularly appropriate now due to the unprecedented growth of bank balance sheets that resulted from federal stimulus in response to the Coronavirus Pandemic. ICBA reports that the total assets of all commercial banks increased from $17.804 trillion on February 5, 2020 to $22.946 trillion on July 6, 2022 – a $5.142 trillion increase in less than two and a half years. During a period of economic uncertainty resulting from the Pandemic, community banks were steadfast in taking steps to keep communities and small businesses in operation. Consequently, many community banks found that their rapid balance sheet expansion and excess liquidity put them into new supervisory categories much sooner than they anticipated, including new CRA size categories.

In addition to increasing the asset thresholds for small and intermediate banks, an appropriate method of tailoring the CRA rule is to allow banks the option to continue to be evaluated under the current CRA framework or to opt-in to the new framework. We commend the regulators for allowing small banks the option to be evaluated under the new Retail Lending Test or the current Small Bank Lending Test and for allowing intermediate banks the option to be evaluated under the new Community Development Financing Test or the existing community development test. For small banks in particular, the cost of consultants, training, and third-party software required to comply with a new regulation can be especially burdensome. Over time, as compliance solutions enter the marketplace and costs decrease, small banks may choose to be evaluated under the new Retail Lending Test if it delivers on promises of providing greater transparency for their larger peers.

We further urge regulators to extend the opt-in provisions to banks below $10 billion in assets, which is a well-established and often used threshold in banking regulation. This proposed regulation itself includes several new requirements regarding the geocoding of deposits, the evaluation of auto lending, and the evaluation of community development services that only become effective at the $10 billion level.

We believe that extending the opt-in to as many banks as possible is appropriate given the unpredictability of implementing a regulatory overhaul of this scale. While there are both positive and negative aspects of this proposal for banks, it is difficult to gauge its true effects on individual bank ratings or compliance costs until it is implemented. Giving more banks the option to choose whether to opt-in to the framework will have a twofold effect – first it will decrease the cost of compliance as new products and services enter the market, but second it will allow banks to better assess the effects of the rule on ratings and allow for the agencies to course correct if the rule produces unintended effects.

In the alternative to allowing all banks below $10 billion to opt-in to the new tests, we would strongly urge the agencies to give intermediate banks the option to opt-in to the new Retail Lending Test. The quantitative, metrics-based nature of this test is complex and will create significant implementation costs for intermediate banks.

Minimize New Data Collection Burden:
Data collection and reporting presents challenges for banks of all sizes, but particularly for small community banks. Community banks often lack the ability to build the systems required to comply with new data collection requirements in-house and are dependent on their core processors and other third-party providers to develop the necessary software, often at exorbitant costs. Therefore, it is critical for the agencies to limit new data collection requirements and, where possible, ensure that data collection requirements are harmonious with other regulations that already require data collection (e.g. HMDA and the forthcoming Small Business Data Collection Rule (Dodd Frank Act Section 1071)).

Implementation Period:
Regarding the rules' substantive provisions, LBA recommends an implementation period of at least two years after publication in the Federal Register, rather than the one-year period the agencies have proposed. The implementation of this major rule will likely overlap with the promulgation of the CFPB's major rulemaking concerning the implementation of Section 1071 of the Dodd-Frank Act. For many Louisiana banks, the same staff members will likely be responsible for complying with both regulations.

Our member banks are not the only entities that must dedicate substantial resources to meet the time pressures of a new CRA rule. As previously mentioned, banks are dependent on software vendors and core providers to furnish services that will be necessary to implement a new CRA framework. Regulators should solicit input from these third parties regarding the time that will be necessary to develop the requisite coding, programs, and systems necessary for banks to implement a final rule. In the case of prior rulemakings involving HMDA and TRID, bank implementation and testing of vendor products was delayed because third-parties lacked sufficient time to develop systems changes for their clients. We urge the agencies to draw upon these experiences when establishing the implementation period for the final CRA rule.

In addition to an implementation period of at least two years following publication of the final rule in the Federal Register, we further recommend that the implementation period be structured such that banks will not be required to report under two different CRA regulations in the same calendar year. Finally, we recommend that the agencies provide extensive interagency training and support to help banks understand and apply a new regulatory framework. Examiner training should also be conducted on an interagency basis.

Credit Unions and Other Non-Banks Should Be Subject to CRA:
There has been a remarkable transformation in the delivery of financial products and services since the CRA was enacted 45 years ago. In addition to the proliferation of electronic delivery channels, payment processing and loan origination are no longer within the exclusive purview of the local bank. In 2021, nonbanks reportedly originated approximately 72% of mortgage loans in the United States. Non-bank origination of small business loans is also on the rise. Fintech lending to small businesses reportedly increased from $14 billion in 2018 to $20.4 billion in 2020.

While we understand that the agencies do not have the ability to extend CRA to non-FDIC insured financial institutions, we must point out the strong objection that LBA members have to credit unions and other non-bank lenders continuing to have an exemption from CRA. We believe that any financial firm that serves consumers and small businesses should be subject to CRA in a manner comparable to banks. It is important to ensure that these institutions are meeting the financial needs of their entire communities, and not simply cherry-picking loans to the detriment of LMI individuals.

Based on the above, policymakers should reconsider the entities that have community reinvestment responsibilities. As Federal Reserve Chairman Jerome Powell observed, "Like activity should have like regulation....Consumers require protection and low- and moderate-income communities require credit support, regardless of the nature of the institution."

Thanks for your consideration of the above comments.

Sincerely,

[redacted]

Joe Gendron
Director of Government Relations