



One Mission. Community Banks.®

August 5, 2022

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

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

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

Regarding: Joint Notice of Proposed Rulemaking; Request for Comment on Community Reinvestment Act – Office of Comptroller of the Currency, Docker ID OCC-2022-0002 and RIN 1557-AF15; Federal Deposit Insurance Corporation, RIN 3064-AF81; Federal Reserve, Docket No. R-1769 and Rin 7100-AG-29

Dear Acting Comptroller Hsu, Acting Chairman Gruenberg, and Chairman Powell:

The Community Bankers Association of Illinois (“CBAI”), which proudly represents nearly 300 Illinois community banks, appreciates the opportunity to provide our observations and recommendations regarding the Office of the Comptroller of the Currency (“OCC”), Federal Deposit Insurance Corporation (“FDIC”), and Board of Governors of the Federal Reserve

CBAI is dedicated to exclusively representing the interests of Illinois community banks and thrifts through effective advocacy, outstanding education, and high-quality products. CBAI’s members hold more than \$75 billion in assets, operate 860 locations statewide, and lend to consumers, small businesses, and agriculture. For more information, please visit www.cbai.com.

System (“Federal Reserve” or “Fed”) (jointly “Regulators”) Community Reinvestment Act (“CRA” or “Act”) joint notice of proposed rulemaking (“Proposal”). CBAI acknowledges statements made in the Proposal that the Regulators “propose to amend their regulations implementing the Community Reinvestment Act of 1977 (CRA) to update how CRA activities qualify for consideration, where CRA activities are considered, and how CRA activities are evaluated.”

CBAI recognizes that the Regulators “seek feedback on changes to update and clarify the regulations implementing the CRA. The CRA encourages banks to help meet the credit needs of the local communities in which they are chartered, consistent with a bank’s safe and sound operations, by requiring the Federal banking regulatory agencies to examine banks’ records of meeting the credit needs of their entire community, including low- and moderate-income neighborhoods.”

CBAI acknowledges the stated goal of this Proposal is to “update the CRA regulations in adherence with objectives that include the following:

- Update CRA regulations to strengthen the achievement of the core purpose of the statute;
- Adapt to changes in the banking industry, including the expanded role of mobile and online banking;
- Provide greater clarity and consistency in the application of the regulations;
- Tailor performance standards to account for differences in bank size and business models and local conditions;
- Tailor data collection and reporting requirements and use existing data whenever possible;
- Promote transparency and public engagement;
- Confirm that CRA and fair lending responsibilities are mutually reinforcing; and
- Create a consistent regulatory approach that applies to banks regulated by all three agencies.”

Introduction

CBAI and its member community bankers support the CRA which was enacted by Congress in 1977 and intended to encourage depository institutions to meet the needs of the communities in

which they operate, including low- and moderate-income (“LMI”) neighborhoods consistent with safe and sound operations. The CRA requires that each insured depository institution’s record in helping meet the needs of its entire community is evaluated periodically. That record is taken into account in considering an institution’s application for deposit facilities, including mergers and acquisitions. CRA examinations are conducted by the banking regulators that are responsible for supervising depository institutions – the OCC, FDIC, and the Federal Reserve. Community banks perform exceptionally well in CRA compliance and examinations precisely because the mission of community banks is to fairly serve all their customers and communities.

Our members continue to tell us that the CRA makes good business sense and benefits everyone. **CBAI urges the Regulators to modernize the CRA to reflect new technologies and customer preferences in the delivery of banking services, highlight and retain appropriate and beneficial parts of the Act, identify missed opportunities for additional credit, reduce the regulatory burden on community banks, and include compliance by all other financial service providers.**

Objectives for the modernized CRA have been offered by those representing the banking industry which include objectivity, consistency, transparency, clarity, consistency, and timeliness. CBAI agrees that these are also worthy objectives that should be attained by the Regulators in this rulemaking.

Joint Rulemaking

CBAI welcomes joint rulemaking to modernize the CRA. Recent rulemaking efforts resulted in two regulators issuing a notice of proposed rulemaking yet just one regulator finalizing a rule, only to have that rule rescinded by the same regulator the following year. This was an unfortunate and frustrating rulemaking process which imposed an unnecessary and unreasonable regulatory burden on banks subject to the CRA. This burden fell particularly hard on community banks at a time when they were significantly challenged to serve their customers and communities during the COVID-19 pandemic.

CBAI believes reasonable interagency dialogue and collaboration, and productive cooperation between the Regulators and the banking industry, are the surest path to meaningful, lasting, and beneficial change. **CBAI encourages the Regulators to continue to engage in joint rulemaking and agree on a reasonable final rule to modernize the CRA.**

Safety and Soundness

The CRA requires community banks to help meet the credit needs of the communities they serve, including LMI areas, consistent with the bank's safe and sound operations. Operating in a safe and sound manner is a prudent business practice and a regulatory requirement, the lack of which is sufficient cause for regulator criticism and even enforcement actions.

The creditworthiness and responsible behavior of borrowers and account holders is the key to safety and soundness – without it these financial services cannot be provided. Regulating and examining for compliance with the CRA must never lose sight of or compromise community banks' ability to operate in a safe and sound manner in all aspects of compliance with the CRA. **CBAI appreciates the Regulators acknowledging the need for safety and soundness and encourages them to continue to support and reinforce this requirement which must not be minimized or lost in the modernization of the CRA.**

Overwhelmingly Positive Exam Results

CBAI questions the belief held by some that because more than 95% of banks receive *Satisfactory* or *Outstanding* CRA ratings that the Act is flawed. The overwhelming majority of banks are community banks that treat their customers and communities fairly and do not discriminate. The fact that the overwhelming majority of banks perform well in CRA compliance and examinations affirms the exemplary behavior of community banks. **CBAI urges caution when the Regulators state the Proposal will *strengthen the regulatory framework*, that the new rule will be *more strenuous*, or the rule would *raise the bar* for fear of creating (or worse yet fulfilling) a misperception about what the CRA modernization process should accomplish.** There is no reason to make the regulatory compliance requirements more rigorous, or the examination process more difficult, for community banks of all sizes.

All Financial Service Providers Must Comply with the CRA

Credit unions are not currently subject to the CRA because they are not defined as “covered institutions” in the regulation. The modernization of the CRA is a historic opportunity for the Regulators to help level an unlevel playing field.

Policymakers who support the CRA should be concerned that credit unions are not subject to the CRA and alarmed by credit unions purchasing community banks. These acquisitions result in the loss of much sought-after data regarding a large and growing sector of the financial services industry's performance in serving their communities, including low- and moderate-income borrowers and communities and in fair lending. The credit unions industry's response for their members not needing to be considered "covered institutions" is that it is their mission to serve individuals of modest means and with a common bond. That belief/excuse is ridiculous given the industry's expansionist agenda, meaningless common bond requirements, and marketing to higher income individuals and communities. The number of credit union acquisitions of community banks recently surpassed 100, so these are not infrequent occurrences.

CBAI acknowledges that Congress must act to include other financial service providers, including credit unions, Farm Credit Services, fintechs, digital asset providers, and the OCC's Special Purpose National Bank charters, for compliance with the CRA in a comparable manner to community banks. **CBAI strongly urges that all financial service providers which offer the same products and services as community banks be subject to the CRA and urges the Regulators to strongly advocate to Congress for this required legislative change.** The obvious regulatory double standard reveals a narrower picture of compliance with the CRA within the entire financial services industry and is harming the safety and soundness of the community banks that the Regulators are responsible for regulating.

Specific Observations and Recommendations

CBAI has organized its comments to conform to the major headings in the Proposal.

III. Community Development Definitions

Definitions used in the CRA modernization should be reasonably specific enough to provide guidance but not so prescriptive as to be a burden to interpret or apply to situations community banks face in serving their customers and communities. For example, the Proposal repeatedly references levels of precision in calculations that must be achieved yet determining those with accuracy may be difficult or impossible. Rather, **CBAI urges the Regulators to use broader definitions and reasonable ranges to eliminate the possibility that too restrictive language and too precise thresholds or percentages will not be met because of an inadvertent error**

or inability to precisely quantify what is being required. See the discussion about False Precision in Sections VIII and IX.

CBAI strongly supports credit being given for residential mortgage lending and mortgage-backed securities that support the mission of the CRA. We urge the Regulators recognize that community banks have different levels of expertise in originating residential mortgages. Many community banks have been forced to stop making residential mortgages because of the increased regulations required under the Dodd-Frank Act. For a bank that is active in mortgage originations, unless it is able to sell those loans it will soon be loaned up and have concentrations in those lending areas. By selling the loans, the originating bank can generate liquidity and make more residential mortgage loans.

The residential mortgage market has created an efficient way to originate, aggregate, securitize and sell loans of varying types including residential mortgage-backed securities that are eligible for CRA credit. CBAI believes that a modernization of the CRA should not inhibit that efficient market but rather it should acknowledge the value of this process in generating more CRA loans than would be possible without the market that has already been developed, in place and working efficiently. **CBAI recommends that any CRA-eligible residential mortgage loan that is originated by community banks receive the maximum CRA credit. CBAI recommends that maximum CRA credit be given to banks investing in (and holding) mortgage-backed securities which contain residential mortgages, particularly from LMI areas within the banks' assessment area and/or to LMI individuals. This CRA credit for community banks should be ongoing and for as long as the security is held by the bank, and at its full dollar value.**

Many community banks choose to retain the servicing rights to residential mortgage loans that they have originated but sold, in order to maintain a closer relationship with their customers while replenishing the lending dollars which enables them to make more residential mortgage loans. A community bank servicing their loans is highly beneficial to the consumer and the community, particularly in times of stress where a meeting or discussion is necessary to help resolve issues or problems with the loan. This personal interaction is highly desirable to the consumer, bank, the financial system, and our economy, and proved its worth during the last mortgage and financial crisis. **CBAI recommends that the qualifying criteria include, and CRA credit be given to for, residential mortgage servicing in addition to originating residential mortgage loans and investing in mortgage-backed securities.**

CBAI supports CRA expanding consideration for assisting individuals to make informed financial decisions (i.e., financial literacy) without regard to income levels or locations of the beneficiaries of those valuable efforts. The need for financial literacy transcends age, gender, race, and ethnicity and is at the very foundation of a bright financial future, and helps consumers avoid being scammed or defrauded by wrongdoers.

IV. Qualifying Activities Confirmation and Illustrative List of Activities

The current way of determining eligibility for qualifying activities (community development and service, and any other), particularly for those that are more complex or innovative, and where the banks might not know if the activity will even qualify for CRA credit, is the unfortunate and flawed situation with the current CRA. **CBAI supports a non-exhaustive, illustrative list of qualifying activities and timely confirmation of eligibility for determining if an activity does qualify (or does not) for CRA credit. This list should be a joint Regulator effort, as there should be no differences between the Regulators' approval or denial for similar opportunities, and the list should be readily available and regularly updated.**

The process for confirming the eligibility should be standardized and reasonable for bank staff to accomplish. These staff members tasked with this responsibility will be knowledgeable about the CRA, but they should not have to be regulatory experts or attorneys to draft and submit proposals for consideration. The response by the Regulators should be timely (within 30 days of submission) and reasonable, and there should be a thorough explanation for the reason for the decision.

The Regulators should adopt a procedure for processing these applications with the goal of finding a reasonable path to approval for eligibility very similar to how banks are encouraged by their regulators to perform a secondary review of denied loan applications – so that no reasonable opportunities are missed. In addition to that procedure, the Regulators should institute a timely and independent appeals review process for denied applications.

CBAI sees no reason to limit applications to those that are being evaluated under the CRA and urges the Regulators to include banking trade associations, on behalf of their members, being eligible to submit a potential qualifying activity or service for consideration.

V. Impact Review of Community Development Activities

CBAI has consistently supported MDIs, WDIs, and CDFIs and urges the Regulators to encourage those who are supporting/assisting these depository institutions with CRA credit. These institutions have a mission of meeting the credit needs of low- and moderate-income and other underserved individuals, communities, and small businesses which highly aligns with the CRA's core purpose. **CBAI recommends qualifying activities be reasonably expansive and inclusive and while the most impactful activities should receive maximum CRA credit, all reasonable and beneficial activities should receive some credit.**

VI. Assessment Areas and Areas for Eligible Community Development Activity

Assessment areas must accurately reflect the communities within which the bank operates. Assessment areas need to reflect the business realities for a variety of banking models in gathering deposits and making loans, in traditional ways as well as ways that were not present at the inception of the CRA.

Community banks have traditionally defined their footprint around their brick-and-mortar home office and branch locations, including automated teller machines ("ATMs") or deposit-taking remote service facilities for the convenience of their customers and to augment their ability to serve their communities. A digital footprint or only ATMs, however, is a significantly different and lesser commitment to an area or community than the more traditional methods of delivering the full range of banking services.

A modernized CRA should reinforce and not deemphasize the importance and value of face-to-face interaction with individuals and small businesses which is a hallmark of community banks and how they serve their communities. **CBAI recommends that Regulators view the non-traditional delivery of financial services as an additional (incremental) but not superior method as opposed to brick-and-mortar home office and branch locations.** Digital access and ATM machines are a way to conveniently deliver banking services, but they do not provide a full range of services, they are not a substitute for brick-and-mortar home offices or branch locations and should not be viewed as anything close to that for facilities that do provide a full range of banking services. **CBAI recommends the Regulators view a financial institution's presence in an area or community with a home office as the greatest commitment to the community, branches should be next, followed by deposit-taking remote service facilities, and then a digital-only presence.**

The determination of an assessment area for those reporting under the CRA is the responsibility of the bank and not the Regulators. This is a requirement under the current CRA and should be the requirement under a modernized CRA. Our members have occasionally reported being challenged by their regulators in the determination of an assessment area and CBAI believes this practice is inappropriate and must stop.

Qualifying CRA activity benefits all individuals and all communities. The focus of the CRA is on low- and moderate-income individuals and communities, so qualifying activities in these areas and for these individuals should be given maximum CRA credit. However, qualifying development and service activity outside of the delineated community (facility-based assessment area) should receive some credit. While this may not be a significant issue for most community banks, it should be available, and we support the need for this flexibility for community banks that may have unique business models.

VII. Performance Tests, Standards, and Ratings in General

The current interagency CRA evaluates financial institutions in three separate categories which are determined by an institution's asset size: small bank, intermediate small bank, and large bank. Annually, the Regulators adjust the asset-size thresholds based on the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI"). Additionally, the Regulators have established intervals between CRA examinations for banks that have attained certain ratings. **CBAI strongly supports asset tiering in the CRA and other regulations, adjusting the thresholds annually based on the CPI, and significant intervals between examinations for those who perform well in CRA compliance to minimize regulatory burden.**

Each of the Regulators has repeatedly acknowledged the need to tailor regulations to an individual bank size and/or business model. Happily, the CRA reflected a tailoring earlier than many regulations by adding the intermediate small bank category to the then existing small and large bank categories and indexing for inflation. The current asset threshold for small banks is under \$346 million, for intermediate small banks it is under \$1.384 billion, and for large banks it is above \$1.384 billion.

In prior rulemaking, CBAI encouraged raising these asset thresholds to reflect industry trends, particularly the consolidation among smaller institutions. Notwithstanding our deep and

legitimate concerns about financial industry consolidation, these acquiring institutions are often other community banks with similarly strong histories of service in their communities and positive CRA ratings.

CBAI's support for raising the asset thresholds is rooted in the belief that it will provide significant regulatory relief to small institutions which are particularly harmed by the increase in regulatory burden while still allowing the Regulators to reasonably assess community banks for CRA compliance. Increasing these thresholds will also free up resources to allow the Regulators to focus their efforts on the largest banks and those that are not performing at least satisfactorily on CRA compliance and examinations.

The Proposal recommends setting the asset threshold for small banks at \$600 million, for intermediate small banks at \$2 billion, for large banks over \$2 billion, and for banks over \$10 billion additional data would need to be reported. While appreciating increases from the prior thresholds, **CBAI recommend increasing these thresholds to \$1 billion for small banks, \$3 billion for intermediate small banks, over \$3 billion for large banks, and over \$25 billion for banks requiring additional data reporting.**

CBAI renews its concern about the asset level the Regulators have proposed for large banks because there is an enormous difference in size (about 1,500 times) between the over \$3 trillion-dollar largest bank in the country and a \$2.0 billion asset bank - yet both are considered large banks for CRA purposes. Similar requirements for CRA reporters with such a diverse size difference do not reflect the tailoring of regulations that the Regulators have committed in this rulemaking and that commitment should be reflected in this Proposal. **CBAI urges the Regulators to address this disparity in the asset range of large banks and provide significant relief for the many smaller banks in that category.**

CBAI agrees with the Proposal to permit small banks to remain with their existing CRA compliance and examination framework. This is a much-needed tailoring of the CRA. In addition, **CBAI urges the Regulators to permit intermediate small banks to also remain with their existing framework.** In addition, the Regulators should permit both small and intermediate small banks to be eligible for the benefits in the final rule that were not previously available for CRA credit including submitting applications for confirming eligibility for credit for qualifying community development and service activities and receiving timely responses.

CBAI urges that these asset thresholds must be exceeded for a minimum of two of the immediately preceding calendar year ends, and the asset thresholds should continue to be indexed to inflation (CPI) as they are under current regulations. The Regulators shall also retain the safety and soundness requirement as explained in greater detail earlier in this comment letter.

VIII. Retail Lending Test Product Categories and Major Product Lines

IX. Retail Lending Test Evaluation Framework for Facility-Based Assessment Areas and Retail Lending Areas

The Proposal has expanded the thresholds for performance ratings that include a bifurcation of the current “Satisfactory” rating into a “High” and “Low” Satisfactory. CBAI is concerned because the Regulators have not articulated a sufficient justification for having two categories within the existing Satisfactory rating. From a community bank perspective, the existing single Satisfactory category is sufficient for their examination and reporting purposes. If the regulators are set on including this change, **CBAI recommends that if retained in the rule, a bifurcation of the Satisfactory category should only apply to very largest banks.**

CBAI is concerned with the pervasive drive for mathematical precision in the Proposal and the process and result the Regulators are trying to follow and achieve, namely an apparent belief that this greater precision in calculating thresholds, percentages, metrics, screens, multipliers, weighting, benchmarks, scoring, and conclusions will unquestionably produce a superior performance evaluation result. CBAI thinks this belief is misplaced (i.e., a concept known as “False Precision”), and as a result, there will be serious unintended consequences with the implementation of the Proposal in the final rule.

The evaluation of CRA examination has and should always retain a certain degree of reasonable flexibility and reasonable examiner discretion, with a robust and independent appeals process to serve as a check and balance against examiner error, bias, or retaliation. However, flexibility and discretion does not lend itself to such a high degree of precision. The Proposal unfortunately eliminates flexibility and discretion.

What is more troubling is that is the many factors used in the new scoring systems contain arbitrary targets and are yet untested in practice. Those using the results as proposed will likely and falsely believe this level of precision is indicative of a superior analytical process and highly

accurate performance measurements and results – which will not necessarily be the case. This situation would not be as concerning if it were not for the incredible importance of banks to comply with the CRA and the consequences of failing to comply.

When there are more than fewer categories there is a greater chance of this problem occurring. It is undeniable that the Low Satisfactory score will have a negative connotation when the results is still Satisfactory and will unnecessarily subject those banks to criticism and a misperception about their satisfactory performance in serving the needs of their customers and communities. Our concerns are not unfounded as a significant number of banks will fall into the Low Satisfactory category based on the Regulators' estimates. This is a completely avoidable situation. **CBAI urges the Regulators to retain the existing categories and not approve two categories to replace the current Satisfactory rating, or at a minimum the names of the two Satisfactory categories should be changed to “High Satisfactory” and “Satisfactory.”**

X. – XIII. Retail Lending, Community Development Financing, Community Development Service Tests

CBAI incorporates the comments above (Section VIII. and IX.) regarding False Precision at the beginning of this section.

The potential impact of the bifurcation of the Satisfactory rating into Low Satisfactory and High Satisfactory is evident for banks of all asset sizes and reinforces CBAI's urging to eliminate this unnecessary division within the Satisfactory rating as explained in greater detail above.

XV. Strategic Plans

Strategic Plans are an important option for community banks with unique and innovative business models, and as a result, this option should continue to be available to banks. CBAI urges the same and no more restrictive announcements, postings, or requirements be incorporated into the final rule for strategic plans.

XVI. Assigned Conclusions and Ratings

CBAI also incorporates the comments above (Section VIII. and IX.) regarding False Precision at the beginning of this section.

The potential impact of the bifurcation of the Satisfactory rating into Low Satisfactory and High Satisfactory is evident for banks of all asset sizes and reinforces CBAI's urging to eliminate this unnecessary division within the Satisfactory rating as explained in greater detail above.

XVII. Performance Standards for Small Banks and Intermediate Banks

Notwithstanding our recommendations to increase the asset thresholds as detailed earlier in this comment letter (Section VII.), CBAI appreciates and agrees that in consideration for the capacity constraints for small banks the Regulators are proposing to continue to evaluate small banks under the small bank performance standards in the current CRA framework - and they may opt-in the Retail Lending Test and importantly may continue to request additional consideration for other qualifying activity. CBAI also urges that intermediate small banks continue to be evaluated under their existing standards in the current framework and would have the ability to opt-in other tests and categories as they choose.

XVIII. Effect of CRA Performance on Applications

CBAI urges the Regulators to maintain the current regulatory procedures for considering CRA performance on applications as they are widely known and sufficient for the purpose, and to impose no additional restrictions.

XIX. Data Collection, Reporting and Disclosure

Data collection, reporting, and disclosure are going to be a significant hurdle for the community banks that are going to be subject to new requirements, particularly those in the intermediate small and large bank categories. Here again, **CBAI objects that a bank that is 1,500 times smaller than the largest bank in the country is being subject to the same large bank CRA regulatory requirements.** The additional regulatory burden imposed on them in the Proposal will fall particularly on community banks who have the least resources, including personnel and expertise, to accomplish what will surely be a monumental compliance task. These types of requirements are not sufficiently tailored for community banks as needed and required.

A particular challenge for community banks that do not have their own in-house data processing systems, and as a result are at the mercy of several large bank data processors ("Cores"), will be how quickly, efficiently, and cost-effectively these Cores can provide the required data, so their

customer community banks are able to comply with the new CRA requirements. If the performance of the Cores is lacking, through no fault of their own, community banks will not be able to comply with the new requirements. **CBAI urges the Regulators to understand, be flexible in the implementation timelines, and assist community banks by urging/requiring the Cores to be ready for the implementation timelines being imposed in the final rule.**

In addition, CBAI has the same concerns about the disclosure of race and ethnicity in the modernization of the CRA as it has for the CFPB's small business data collection and HMDA. Our concern is that lending and providing other financial services requires the banker to not consider (be blind to) a person's age, sex, race, and ethnicity, yet increasingly regulations are proposing and implementing requirements for lenders and financial service providers to ask, learn and report this information. There is an unavoidable conflict with a requirement to learn and report certain information on the one hand, yet on the other hand to irrefutably not allow that information that was learned and reported to influence the loan or financial service decision.

Those who suggest that a firewall can be established to separate the learning and reporting from the lending or financial service decision are unaware of how community banks operate. In community banks, the person that is taking the loan application, learning the information to be reported, analyzing the loan request, presenting the loan for approval, documenting the loan, funding the loan, and is responsible for managing the lending relationship on an ongoing basis is one in the same person. Community banks do not have the many divisions of labor that the largest of the large banks have, so establishing firewalls for community banks is just not possible. **CBAI urges the regulators to be aware of and remove the conflicts stated above and not propose that community banks do what they are unable to do – and then criticized them for not doing so.**

In addition, CBAI sees no reason why the final CRA rule would require the disclosure of HMDA data by race and ethnicity in large bank CRA performance evaluations when that information is already available in the bank's HMDA report which is readily available. This would be an unnecessary duplication of reporting.

XX. Content and Availability of Public File, Public Notice by Banks, Publication of Planned Examination Schedule, and Public Engagement

CBAI agrees with the Proposal regarding the content of the public file, the proposed clarifications to the specific requirements, and the current and proposed requirements and approach for the location of the public information. We agree with the Proposal to make the CRA public file available on the bank's public website. CBAI agrees with the current approach regarding public notices, we see no need to change the current approach regarding the planned examination schedule, and we believe there are sufficient approaches currently available for public engagement.

In addition to addressing the disclosure of the public file, the Regulators should address ensuring the timely receipt of the Performance Evaluation by the bank. While this has not been stated as a significant issue by our community bank members, it was cited in an April 3, 2018, Memorandum from the U.S. Department of the Treasury which stated that the process has sometimes taken the regulators years to complete.

Notwithstanding the positive experience of community banks, CBAI highlights a glaringly apparent flaw in the system regarding a very large bank CRA examination and the delayed release of their CRA examination result of Needs to Improve (for reportedly committing fraud against more than five million of its customers) which was delayed for four years. It is inconceivable how this decision could have been delayed for that length of time. We are not aware of any similarly long delays for community banks – nor should there be delays anywhere near that length of time for any bank. **CBAI recommends changes in the examination and appeals process that allows for such a lengthy delay in an examination rating, particularly an unfavorable CRA rating for one of the largest banks in the country.**

XXI. Transition

The Proposals implementation timeline is overly ambitious and is insufficiently tailored to meet the legitimate needs and limitations of community banks. **CBAI recommends the timelines be doubled.** What is being proposed will be the most significant changes to the CRA since it was implemented in 1977. There needs to be sufficient time to understand and prepare for all aspects of the implementation of the rule from analysis, preparation, training, and data collection to examinations.

CBAI urges the Regulators consider tailoring the implementation of the final rule similar to what was done by the Financial Accounting Standards Board (FASB) for the

implementation of the Current Expected Credit Loss Model (CECL), where the largest institutions implemented first, followed by the mid-sized institutions, and after that, the vast majority which are the smallest institutions. What is particularly useful about this implementation strategy is that in addition to those most able to comply going first and the regulators have the opportunity to discover and address any unintended consequences before they become a significant challenge for the smaller institutions.

Also, CBAI encourages the Regulators to include in the final rule a commitment to publish a formal Request for Comment, 12 to 18 months after the first examinations have concluded, to discover and successfully address any unintended consequences in the implementation of the final rule.

Summary and Conclusion

CBAI strongly encourages the Regulators to consider these observations and recommendations in joint rulemaking. This is a historic opportunity to modernize the CRA in a manner that makes it relevant and properly focused now, and in the future, without increasing the regulatory burden on community banks in recognition of their exemplary performance in serving their customers and communities – fairly and honestly. It has been proven repeatedly that community reinvestment is what community banks do best. It is their mission, and it is paramount to their ability to thrive and survive, so the first goal of Regulators should be to do no harm to community banks while modernizing a clearly outdated CRA.

Thank you for considering our observations and recommendations on the modernization of the CRA. If you have any questions or require any additional information, please contact me at davids@cbai.com or (847) 909-8341.

Sincerely,



David G. Schroeder
Senior Vice President
Federal Governmental Relations