IBC
International Bank of Commerce

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President

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Federal Deposit Insurance Commission
Via e-mail: Comments@FDIC.gov

Re: RIN 3064-AD60
Community Reinvestment Act Hearings

As the largest Hispanic bank in the continental United States, International Bank of Commerce and its sister banks would like to share the following thoughts about the Community Reinvestment Act (CRA) and the questions raised for the hearings.

Background. CRA was enacted in 1977, with some tweaks since then but no real significant shift in underpinning. In other words, the basic concept remains that banks should make their loans where they take their deposits.

At that time, Texas (and a number of other states) were still unit-banking states with branches absolutely prohibited. Savings and loan associations made mortgage loans, and credit unions provided consumer credit to their members (with restrictive field of membership requirements). Since then, the "shadow banking" industry has significantly dominated residential mortgage lending, and credit unions are significant competitors to banks (although they are still not subject to CRA). Since the 70's the banking industry has changed significantly. However, the CRA appears to be trapped in the past, like a mosquito trapped in amber.

Geographic coverage. A core concept for CRA is that banks should make loans where they take deposits. Assessment areas must be carefully identified. However, since 1977 the concept of market has significantly eroded. Giant interstate banks have branches and a presence in many states, but predominantly in the urban centers. Almost all banks have online banking services, with the capability of establishing customer relationships electronically. Customers can do business by phone—even depositing checks through image capture on smart phones. IBC has an attractive retail branching program through grocery store relationships. So, where is our "market"? We would suggest it would be most appropriate to evaluate our performance on an aggregate basis. In Houston, we compete against the largest banks in the nation and have a small market share. In Laredo, our home, we have a significant market share. Evaluating our operations on an aggregate basis is more reflective of the total banking operations.

We would also point out the problems in evaluating CRA performance for new branches. Even with aggressive marketing campaigns, it takes a certain amount of time and effort for a new branch to achieve the deposit penetration and then the lending activity that would be commensurate with its peers. Again, an aggregate review is more rational.

With all of the changes in delivery of banking services, the entire concept of assessment area appears to us to be outmoded. Yet, our bank must expend significant resources in mapping our assessment areas, identifying the correct census tracts for our evaluation, and then monitoring activities accordingly. This cost produces nothing in regard to expanded services and products to consumers. However, it is one of many compliance costs for our institutions.

Affiliate activities. One of the questions is whether affiliates should be considered along with the bank. IBC has merged its mortgage operation into the bank, but there are still separate mortgage subsidiaries held by competitors. Candidly, we believe that the Dodd-Frank Act and its changes to federal preemption will result in affiliate structures, which we have already anticipated. Nonetheless, we would suggest that evaluations should be performed on an enterprise level, or holding company –wide approach.

Small business and consumer lending. This topic asks about data requirements for small business and small farm lending activities, including activities or products designed to meet low to moderate income (LMI) consumers. It is important to note that USDA-Farm Credit Banks and production credit associations compete with banks for rural loans. These include traditional farm production loans but also now include rural and small town business loans and even residential mortgages in rural areas. This competition affects the ability of community banks to make loans to agribusiness, farmers, and rural communities generally. We recommend against even more data collection on small farm and small business lending. The additional record keeping adds to the cost of providing this lending service. Also, it will be hard to gather all of the monitoring info (race, age, etc.) and then explain to the customer that the information is not being used in making the credit decision!

Ratings and incentives. Currently, the examination process segments the ratings into "outstanding, high satisfactory, satisfactory, low satisfactory, needs to improve, and unsatisfactory." However, it is not clear precisely what standards are required to be met for each subcategory. Right now, however, only "satisfactory" is used on the official rating. IBC believes that additional public reports would not serve any purpose and would be confusing.

The disincentives for a less than satisfactory rating are huge and include inability to branch, inability to merge or acquire failed banks, inability to obtain long term FHLB advances, inability of financial holding companies to engage in new activities, disqualification for state public fund deposits (in Texas) and for some local public fund deposits (varies by locality) and reputation cost. We believe that these costs are severe and should not be expanded.

Standards. IBC would suggest that there are other areas of concern in CRA with regard to applicable standards. For example, banks are expected to meet "benchmarks" that are based on "peer" performance. The examiners know what these are, but they are not always readily apparent to bankers until the exam. Further, the determination of what is truly a "peer" bank needs further consideration. Size is relevant, of course, but state location, market type (urban vs. suburban vs. rural) and business strategy (retail focus vs. commercial) all affect a particular bank's activities. The bank's strategic plan really should determine the benchmarks, and if these are reasonable, then the test for whether they were reasonably achieved should tie back to the plan without artificial "peer" benchmarks. Also, the bank should be able to allocate its "CRA Activities" between lending, services, and investments based on its evaluation of its markets' needs. In other words, it seems logical that a retail bank might focus more on reasonably priced (or free) accounts and financial literacy but then not be expected to make arbitrary amounts of investments in qualifying activities. Isn't that just forcing a bank to make a "charitable" contribution?

Conflicting "messages." Over and over, the CRA requirements appear to run counter to certain safety and soundness expectations. For example, there is Interagency Guidance on Subprime Lending that absolutely discourages lending to borrowers with credit scores below 660. Various bulletins on subprime lending appear to confuse lending to borrowers with subprime characteristics with predatory lending. The entire state of Texas has an average credit score of 550. The border areas have a lower average credit score, we believe. But if the bank were to reduce its lending based on poor credit scores, it would be in trouble for not meeting the credit needs of its LMI customers. If loans to customers with poor credit scores do NOT have higher interest rates, then safety and soundness examiners may conclude that the loans are not being appropriately priced for risk. On the other hand, a failure to make loans in these areas could alternatively lead to a redlining complaint.

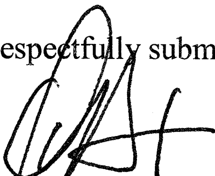
Banks must be profitable and should have reasonable net interest margins. Retained earnings are a significant factor in capital. Again, pressure to offer special products/loans for the LMI sector can conflict with other important regulatory objectives.

Qualifying activities. The CRA regulation and FAQs should encourage creativity and allow banks to be innovative and flexible in designing new products and services that can reach out to ALL sectors of the community. The revised FAQs recognize but this should be strongly encouraged.

Other. The increased record keeping requirements (more data fields) and the continuing restrictions on products is resulting…and will continue to result on an accelerating basis…in the erosion of available products and services. Between fair lending examinations and unpredictable UDAP assertions, banks are being herded into cookie-cutter products. This means less choice for customers—who apparently can't be trusted to select products from their trusted bankers. The mind-boggling increase in regulatory requirements is making compliance cost one of the biggest factors for community banks. Ultimately there will be fewer institutions, meaning less choice in the marketplace.

Bottom line: CRA as currently in the law and regulations is out of touch with the financial services industries and with the desires and needs of real customers. Congress should either apply these onerous requirements to ALL competitors or scrap it. We understand that the regulators cannot change the law. However, we believe that the disconnect between current financial services in the real world and the CRA world of 1977 is severe and leads to arbitrary results in examinations. Neither bankers nor customers are well served by the current regime.

Respectfully submitted,



Dennis Nixon