



February 27, 2020

Robert E Feldman  
Executive Secretary  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429  
Attention: Comments, RIN 3064-AF22

Legislative and Regulatory Activities Division  
Office of the Comptroller of the Currency  
400 7<sup>th</sup> Street SW, Suite 3E-218  
Washington, DC 20219  
Docket ID OCC-2018-0008

RE: Community Reinvestment Act Regulations

Dear Madam or Sir:

The Bank of Labor is headquartered in Kansas City, Kansas and has branch locations in the eastern part of Kansas in Wyandotte and Johnson counties. The Bank operates a remote service facility in Washington DC which includes a deposit taking Interactive Teller Machine (ITM). As of the December 31, 2019 Call Report, the asset size of Bank of Labor (Bank) was 664 million. The Bank's primary federal regulator is the Federal Deposit Insurance Corporation (FDIC). The Bank is owned by Bank of Labor Bancshares, Inc., Kansas City, Kansas, a one-bank holding company. The parent company of Bank of Labor Bancshares, Inc., is the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Kansas City, Kansas. There are no lending subsidiaries or affiliates. The Bank received a "Satisfactory" rating at its last FDIC CRA Performance Evaluation in 2019, based on the Interagency Intermediate Small Institution Examination Procedures.

The Bank's business model includes serving the banking needs of the Kansas City, Kansas community where the Bank's branches are located as well as developing business relationships with Union organizations, including loans, without regard to geographic limitations.

Bank of Labor appreciates the leadership and hard work of the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency to draft a proposal on which stakeholders can provide feedback.



Bank of Labor is committed to the goals of CRA and to meeting the credit and financial service needs of our customers and communities that we serve. Examples of Bank of Labor’s service to our community includes holding budgeting classes for low-to-moderate income families within our Assessment Area (AA) at one of our Bank branches; holding “Lunch and Learn” events for Small Business clients with a focus on topics of importance to small business owners; Bank Officers are serving on not-for-profit organization boards and providing their financial expertise; Bank staff make presentations of Senior Crimestoppers fraud prevention training to seniors that are of low-to-moderate income.

Bank of Labor takes pride in being a facilitator of economic growth. But, CRA regulation and supervision have become overly complex, unpredictable, and the regulation has not kept up with the way consumers use technology to access financial products and services. The need to update CRA has existed for years and will grow more pressing as technology and the financial services industry continue to evolve.

We urge all three banking agencies – the OCC, FDIC, and Federal Reserve – to develop a final CRA rule that is issued on an interagency basis.

### **Qualifying Activities**

- A. Expanded Criteria for Qualifying Activities. The proposed qualifying activities criteria generally would include activities that qualify for CRA credit today as well as other activities that are consistent with the purpose of CRA but may not qualify under the current regulatory framework. Examples of qualifying activities would include activities supporting community support services (such as childcare, education, and health services), essential community facilities, essential infrastructure that serves LMI individuals, naturally occurring affordable housing, rental housing for LMI individuals residing in high-cost areas, and activities in Indian country.

Banks could receive pro rata credit for activities that partially, but not exclusively, benefit LMI individuals, such as financing mass transit that serve LMI neighborhoods and other geographies. Additionally, to incentivize banks to engage in certain activities, the proposal would double the value of certain activities, including activities involving community development financial institutions (CDFIs), community development investments (not including mortgage-backed securities or municipal bonds), and other affordable housing-related community development loans.

**Bank Response:** Based on the June 2019 FDIC Deposit Market Share report for the Kansas City, MO-KS, metropolitan statistical area (MSA) there are 123 banks. Competition is fierce for CRA community development qualified loans and investments.



The Kansas City, MO-KS MSA includes service industries that include trade, transportation and utilities; financial activities; professional services; education and health services; and hospitality represent the largest portion of the businesses within the bank’s assessment area. Companies with headquarters located in the metropolitan area that provide employment include Cerner Corporation; Ferrellgas Partners, L.P.; H&R Block, Inc.; Evergy Inc.; Kansas City Southern; Seaboard Corporation; YRC Worldwide, Inc., Garmin and HCA Midwest Health System.

**Demographic Information of the Kansas City Assessment Area**

Demographic Characteristics	#	Low % of #	Moderate % of #	Middle % of #	Upper % of #	NA* % of #
Geographies (Census Tracts)	479	16.5	21.9	30.3	27.3	4.0
Population by Geography	1,810,507	10.0	21.3	35.0	33.4	0.3
Housing Units by Geography	775,565	11.9	22.5	35.4	29.7	0.5
Owner-Occupied Units by Geography	453,440	6.4	17.6	36.9	39.0	0.2
Occupied Rental Units by Geography	251,629	17.3	29.7	34.8	17.5	0.7
Vacant Units by Geography	70,496	28.1	28.2	28.0	13.8	2.0
Businesses by Geography	122,812	7.5	18.4	33.0	38.9	2.1
Farms by Geography	3,203	4.7	15.7	39.5	39.8	0.3
Family Distribution by Income Level	452,995	21.2	17.2	20.1	41.5	0.0
Household Distribution by Income Level	705,069	23.6	16.6	17.5	42.3	0.0

Median Family Income for the Kansas City MSA	\$72,623	Median Housing Value	\$163,406
Families Below Poverty Level	9.2%	Median Gross Rent	\$863

Source – 2015 ACS Census. 2018 D&B Data. Due to rounding, totals may not equal 100.0

\*The NA category consists of geographies that have not been assigned an income classification.

Bank of Labor’s expertise is better suited to making small business loans due to the challenge of finding qualified investments within our designated assessment area.

- B. Confirmation Process. The proposal would establish a process under which a bank could ask its regulator to confirm that an activity qualifies for CRA credit. Within 6 months, the agency would notify the requestor whether the activity qualifies (incorporating any conditions, if applicable). If the agency does not object within this timeframe, the activity would be confirmed as a qualifying activity.

**Bank Response:** The preapproval process would potentially incentivize Bank of Labor to consider new and innovative CRA activities that currently the bank is not engaged in. A three (3) month timeframe rather than a six (6) month timeframe would provide the Bank with the opportunity to make necessary adjustments to its CRA program dependent on the confirmation of the proposed CRA activity. A six (6) month turnaround by the regulatory agency is not timely.

- C. Illustrative List of Qualifying Activities. The agencies would maintain on their website a non-exhaustive list of examples of qualifying activities and non-qualifying activities. In addition to updating the list in response to requests submitted pursuant to the confirmation process the agencies will publish the qualifying activities list at least every three years for public notice and comment.

**Bank Response:** Bank of Labor would find the illustrative list of qualifying activities helpful. The illustrative list would eliminate confusion for the bank on what is considered a qualifying community development activity and what does not qualify. In addition, the illustrative list would provide a more “even playing field” for banks. The subjective determination of what does and does not qualify would not be left to the examiner conducting the CRA examination.

Publishing the illustrative list of qualifying activities at least every three years for public notice and comment could negatively impact qualified activities and require banks to change their established strategies for complying with the requirements of the Community Reinvestment Act.

### **Assessment Areas**

To address concerns that the existing CRA regulations place too much emphasis on physical bank locations, the proposal would establish two types of assessment areas - facility-based assessment areas and deposit-based assessment areas.

(1) Facility-based assessment area – a bank would be required to delineate a facility-based assessment area encompassing each location where the bank maintains a main office, a branch, or a non-branch deposit-taking facility as well as the surrounding locations in which the bank has originated or purchased a substantial portion of its qualifying retail loans.

(2) Deposit-based assessment area – a bank that sources 50 percent or more of its retail domestic deposits from outside its facility-based assessment area would be required to designate deposit-based assessment areas that include the non-overlapping geographies in which the bank sources 5 percent or more of its retail domestic deposits.

**Bank Response:** The bank’s physical (brick-n-mortar) facilities are located within one assessment area which is comprised of contiguous political subdivisions of six (6) counties located in Kansas and Missouri. Historically, the bank has excelled in originating small business loans in low-and moderate-income census tracts within the bank’s defined assessment area exceeding both the demographic and aggregate data. Bank of Labor compared retail domestic deposits to total deposits as of December 31, 2019, with an

adjustment for an ACH prefunded deposit and determined that 72% of retail domestic deposits are derived from the bank's facility-based assessment area.

## **CRA Performance Measurement**

In lieu of the current CRA regulation's lending, investment, service and community development test, the proposal's new framework would evaluate a bank's CRA performance within each assessment area and at the bank level using three benchmarks. Together, these three benchmarks would generate a presumptive rating for each assessment area and an overall bank-level rating, which the agencies could adjust based on performance context factors or evidence of discriminatory or other illegal credit practices.

Benchmark #1: The CRA evaluation measure is the sum of the following: (1) a bank's qualifying activities divided by the value of the bank's retail domestic deposits and (2) the number of the bank's branches located in LMI census tracts, distressed areas, underserved areas, and Indian country divided by its total number of branches, multiplied by 0.01. The average of a bank's bank-level CRA evaluation measures will correspond to the following CRA ratings:

- Outstanding – 11 percent or higher
- Satisfactory – 6 percent or higher
- Needs to Improve – 3 percent or higher
- Substantial Noncompliance – Less than 3 percent

Benchmark #2: The Retail Lending Distribution test evaluates the distribution of the number of a bank's loans in a major retail lending product line (i.e., a retail lending product line that comprises at least 15 percent of the bank's retail originations by volume) in an assessment area using the following: (1) a geographic distribution test\* for small loans to businesses and (2) a borrower distribution test\*\* for small loans to businesses.

\*Geographic Distribution Test – a bank's percentage of such loans in LMI census tracts must meet or exceed the associated geographic demographic comparator OR peer comparator.

\*\*Borrower Distribution Test – a bank must meet or exceed the associated borrower demographic comparator OR the borrower peer comparator for small loans to small businesses.

Benchmark #3: Community Development 2% Minimum test requires a bank's community development loans and investments must meet or exceed 2% of the average quarterly value of the bank's retail domestic deposits.

Small Bank Opt In. The proposal would eliminate the existing Intermediate Small Bank category and would permit banks with \$500 million or less in assets the option to opt-in to the "new" performance evaluation standards or choose to be evaluated under the existing regulatory framework for small banks.

Bank Response: Currently, Bank of Labor falls under the Intermediate Small Bank category for compliance with the Community Reinvestment Act. The small bank opt-in threshold should be raised to include banks with assets under **\$1 billion**, adjusted annual based on the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The proposed data collection, recordkeeping and reporting are substantial and will require the bank to invest in a software program specific to CRA data collection. Sophisticated data collection software systems can range from \$15 to \$20 thousand dollars for initial purchase with an ongoing annual maintenance fee. In addition, due to the substantial recordkeeping requirements additional staffing and training will be necessary. This will cause a negative impact to the bank's earnings.

### **Data Collection, Recordkeeping & Reporting**

The proposal will focus on a bank's balance sheet in lieu of the CRA data reporting that exists today. It imposes significant recordkeeping requirements regarding the collection and maintenance of new data supporting the bank's performance. Each year, a bank would need to report the following information for all qualifying retail loans (including consumer loans):

- A unique number or alpha-numeric symbol to identify the relevant loan file;
- Loan type;
- Date of (as applicable) origination, purchase, or sale if the loan is a retail loan and sold by the bank within 90 days of origination;
- An indicator of whether the loan was originated or purchased;
- Loan amount at origination or purchase;
- Outstanding dollar amount of the loan, as of the close of business on the last day of the month, for each month that the loan is on the balance sheet;
- Loan location and associated FIPS code for the MSA, state, county or county equivalent and census tract;
- Income or revenue of the borrower; and

- The qualifying activities criteria in the regulation that the loan satisfies or that it is on the illustrative list and whether it serves a particular assessment area, if applicable.

In addition, banks will be required to collect and maintain the following information on **non-qualifying** mortgage and consumer loan originations: a unique identification number or symbol, the loan type, the origination date, the loan amount at origination, the loan location and the income of the borrower.

For each community development investment, a bank would be required to collect and maintain the following:

- A unique identification number or similar mechanism;
- Investment type;
- Date of investment;
- Outstanding dollar value of the investment as of the close of business on the last day of each month that the investment is on-balance sheet;
- The value of the monetary or in-kind donation;
- The investment location, and
- The qualifying criteria that the investment satisfies or that is on the illustrative list and whether it serves a particular assessment area, if applicable.

For each qualifying CD service, a bank would be required to collect and maintain descriptions of each qualifying CD service and the date each CD service was performed.

Banks will be required to collect and maintain results of the borrower distribution and geographic distribution tests for major retail lending product lines and would be required to collect the value of each retail domestic deposit account and the physical address of each depositor as of the close of business on the last day of each quarter.



**Bank Response:** The validation of the required CRA data collected will require additional staffing. This will negatively impact the bank's earnings. The majority of account types will require geocoding which will be an additional process not currently being completed. The geocoded data will need to be retained in a data field in our core processing system. In addition, the bank will be required to retain the gross annual revenue of small business accounts and annual income for

consumer accounts in a data field on the core processing system that can be extracted for data reporting purposes.

Bank of Labor appreciates the opportunity to comment on the Proposal. Thank you for considering our comments and recommendations. Please contact me at [pthomas@bankoflabor.com](mailto:pthomas@bankoflabor.com) or 913-288-3298 with questions.

Sincerely,



Patrick Thomas  
Bank of Labor  
Senior Vice President/CRA Officer