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thebancorp.com

March 27, 2020

Via Electronic Submission to Comments@FDIC.gov

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Reforming the Community Reinvestment Act Regulatory Framework
RIN 3064-AF22

Dear Madam or Sir:

The Bancorp Bank (“Bancorp”) appreciates the opportunity to offer comments in response to the Federal Deposit Insurance Corporation (“FDIC”)’s advance notice of proposed rulemaking concerning the Community Reinvestment Act of 1977 (“CRA”). The proposed changes to the CRA were reviewed internally by Bancorp’s legal and compliance departments. As a result of the review, Bancorp has determined that the proposed changes regarding “deposit-based assessment areas” would penalize banks that utilize non-traditional business models to conduct banking business and would dilute the overall CRA impact in the communities which they serve.

Background

Founded in 2000, The Bancorp, Inc. (NASDAQ: TBBK) is the holding company for The Bancorp Bank and is headquartered in Wilmington, Delaware with operations throughout the United States. The Bancorp maintains a five-county assessment area in the Philadelphia-Wilmington metropolitan area. Bancorp has a unique business model that significantly differs from otherwise traditional “brick and mortar” institutions. Specialty lending services, private-label banking and technology solutions are provided to non-bank companies in high-growth financial service sectors such as Payments and Institutional Banking.

Bancorp’s Retail Division serves the needs of consumers and small and mid-sized businesses in the Philadelphia-Wilmington metro area. The division also serves national markets with its Small Business Administration lending, Commercial Leasing, Real Estate Capital Markets and Institutional Banking programs.

Banking services provided by
The Bancorp Bank.
Equal Housing Lender.
Member FDIC.



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Separately, Bancorp's Payments businesses include the Payment Solutions Group, which encompasses stored value cards, and the Payment Acceptance Group, which encompasses credit card and ACH processing. These branchless banking programs enable members, employees, and customers of affinity partners to access customized, online banking services under the affinity partner's brand.

Bancorp is firmly committed to the goals of CRA and to meeting the credit and financial services needs of our customers and communities. Bancorp currently meets its CRA obligations under a Strategic Plan approved by the FDIC. This Plan considers Bancorp's unique structure, footprint, and sufficiently allows Bancorp to meet its CRA obligations consistent with the spirit and intent of the CRA.

Bancorp's Proposal

The FDIC has invited comments on how to update the current CRA framework to keep pace with changes in banking and technology. As such, Bancorp wishes to focus this comment letter on the provision of the proposed rule that expands assessment areas by requiring banks to delineate additional, non-overlapping "deposit based" assessment areas where there are significant concentrations of retail domestic deposits.

Bancorp is distinguished from its peers by the nature of how its deposits are gathered. While traditional banking models generate deposits across a branch network or by proactively marketing a product set, Bancorp houses deposits for non-traditional fintech partner groups. This model enables our partners to provide their customers with FDIC insurance across the nation. The proposed "deposit based" assessment area delineation would be highly burdensome, and virtually impossible for Bancorp to continually maintain given Bancorp has no actual control over the way deposits are accreted.

A majority of Bancorp's deposit-gathering activity is predicated on the commercial activity of its non-bank partners. These activities are agnostic to geography or residence of the depositor and are, in fact, nationwide in scope. Hence, requiring Bancorp to identify its "deposit-based assessment areas" would unduly obligate Bancorp to dramatically expand its assessment area based on newly defined deposit-based assessment area rules and effectively create new expanses in assessment area geography annually. In fact, the MSAs that Bancorp would be required to add based on the new proposal are comprised of massive parts of the state of Texas and the entire New York City metropolitan area. The changes set forth by the proposed deposit-based assessment areas would create a new assessment area based on the deposits of millions of customers from both private-labeled deposit products and bank sponsorship partnerships. Bancorp's assessment area would potentially increase by over 600% from the current geography, currently a 2210 square mile area. As noted above in practical terms, this would dilute Bancorp's ability to effectively meet the credit needs of any one community.

Conclusion

In summary, Bancorp views this proposal as unworkable in the context of how Bancorp conducts its business operation and does not believe that delineation of "deposit-based" assessment areas is viable or needed. Communities from which large concentrations of retail deposits originate already receive CRA benefit under the current regulations. The Strategic Plan model allows banks to effectively craft a CRA program that meets the spirit of the law based on its business model and geographic position sufficient to address regulatory



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concerns related to CD Hotspots and CD Deserts. Bancorp sees stark differences between the obligations of institutions with direct control over deposit gathering and those who acquire deposits from third party organizations. Any proposed rule which would mandate the need for the creation of a “deposit-based assessment area” to address “deposit deserts” would need to be conditioned upon the institution’s ability to effectively control or manage the sources of its deposits. The proposed rule would ultimately result in an enormous compliance burden, thus diluting Bancorp’s effectiveness in meeting the credit needs of low and moderate-income persons within its current assessment area.

Addressing the unique challenges presented by the proposed CRA rule changes is critical and Bancorp appreciates the leadership and hard work to draft a proposal on which stakeholders can provide feedback. We welcome further discussion and can be contacted using the information provided below.

Best regards,



Keith German

VP, Community Reinvestment Act Officer

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