



*Success through Partnership*

April 3, 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 Executive Secretary Feldman and Members of the Office of the Comptroller of the Currency,

On behalf of Fremont Bank, a \$4.1 billion community bank based in the San Francisco Bay Area, I want to thank you for the opportunity to share commentary on the proposed modernization of the Community Reinvestment Act (CRA) regulations. Fremont Bank has always been, and continues to be, fully committed to the development of the city of Fremont and greater Bay Area. As a community bank, we inherently understand that we grow as our community grows, not the other way around. Knowing this, one of our greatest focuses is to develop the areas in our neighborhoods which have the greatest potential for prosperity and economic improvement.

We fully support the modernization of the complex and broad regulations under the CRA, and we also recognize the importance of finding a solution that is amenable to all three Regulatory Agencies. In this regard, we feel strongly that consistency and uniformity amongst the Agencies is more important than any potential regulatory updates. It would be unseemly, disorganized, and inefficient for our bank, which faces regulations from all three Agencies, to receive guidance from each that contradicts what another is suggesting.

While we applaud the current proposed modernization's offer of a number of much needed reforms, we feel that many of the suggestions have unintended consequences that ultimately are antithetical to the underlying purpose of the CRA, which states that a bank has a "...continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered" (12 USC Ch. 30, Title 12 Sec. 2901). Any changes to the regulatory language should, in theory, help and promote a bank's affirmative obligation to meet the credit needs of its community.

Beyond all other opinions within the proposed modernizations, our greatest level of concern lies with the valuation of loans sold within 90 days of origination (trade loans). We whole-heartedly believe this valuation penalizes Fremont Bank for engaging in activity that the CRA intends to encourage. If Fremont Bank were to receive only 25% of the value of these trade loans, we could actually be forced to lend less rather than more. Under the proposed rule, in order to meet the same credit for the CRA, we would need to lend four times the amount we currently do. Given our regulatory liquidity requirements, this simply would not be possible. Moreover, we cannot afford to hold these loans for the arbitrary 91-day period, due again to our liquidity requirements. If the proposed modernizations were instituted, we would be asked to artificially allocate credit within our community to comply with the new regulations. This artificial allocation would lead us to lend less in favor of alternative investments, which is not the goal of the CRA. We believe this valuation would also worsen our communities housing shortage, as it would become harder for all lenders to justify making these loans.

Fremont Bank also feels strongly that the new definition of facility-based assessment areas is unnecessarily strict and punitive to us and the nearly 3000 other like community banks across the country affected by these changes. As a result of the rapid growth of the Bay Area and shortage of housing, we have an increasing number of clients who live in a different county from the one in which they work. These clients may benefit further from a branch location closer to their home. Using the new definition, we would be penalized for attempting to better serve our community members in our neighboring Bay Area counties, since we would become responsible for the entire county. While it may seem plausible in concept, some of these neighboring counties range upwards of 3000 square miles, and it is simply impossible for a single branch to effectively provide service for this entire area. Moreover, it is improper to mandate banks, especially smaller community banks such as ourselves, to open multiple branches in a new county it never intended to serve. Communities in the United States are fundamentally and historically fluid, and as such, the assessment areas under the CRA should be as well.


Somewhat conversely, Fremont Bank in general supports the idea of the CRA Performance Measures, which would provide clarity, objectivity, and simplicity to the remarkably complex regulations. Quite importantly though, in addition to our above concerns, we believe there is an unintended consequence regarding the Community Development Minimum. By increasing the limit for qualified small business loans from \$1 million to \$2 million in both loan size and revenue, the total eligible pool of Community Development (CD) loans has been effectively diminished. This issue impacts us quite significantly, as under the new tests, we are assessed separately using only CD loans and investments. As a smaller community bank, we simply do not have the same resources as the big banks to fund entire departments that can seek out CD loans. Presumably, the point of this regulatory change is to make meeting the qualified small business loan requirements easier. However, we believe that the unintended consequence is that it will be significantly more difficult to make CD loans. In order to pass the CD Minimum test, we would be better off focusing more on CD investments, which would leave a gap in the much-needed area of CD loans. As such, Fremont Bank suggests allowing for some flexibility on how loans to qualified small businesses between \$1 million and \$2 million are counted at the discretion of the bank.

Lastly, we disagree with the proposal to significantly increase and shift the reporting and data collection burden to banks. Fremont Bank believes this proposal is costly, inefficient, and ultimately restricts our ability to meet the credit needs of our community. The FDIC models have estimated the direct cost to banks of our size at almost \$700 thousand annually, and this cost does not account for mandatory

software upgrades that would be undeniably necessary in order to maintain compliance under the new regulations. Additionally, by asking banks to self-assess, we lose the economies of scale provided by housing the assessment centrally with the Regulatory Agencies. If the purpose of the Community Reinvestment Act is to recognize, encourage, and promote the affirmative obligation that banks have to meet the credit needs of their communities, requiring the injection of time, effort, and capital into unnecessary reporting and self-assessments seems counterintuitive and beyond the regulatory scope of the legislation.

In sum, I would like to thank you again on behalf of Fremont Bank for the opportunity to comment on the proposed modernizations. We fully support the concepts behind what the regulatory modernizations set out to achieve; however, given the unintended consequences of the proposal stated above, we urge the Regulatory Agencies to reconsider the regulations. Additionally, we also want to stress the importance and immeasurable value of having uniformity amongst the Agencies. Considering the entire purpose of the proposed regulations is to add clarity and consistency to the CRA, it would seem necessary and proper to have a regulation to which all of the Agencies could agree and adhere. As the regulation currently is written, community banks such as ourselves are penalized, and our mission to assist with the credit needs of our community would be heavily impaired, which is antithetical to the original purpose of the CRA. We hope you will consider the points we have raised in your review of the CRA modernization.

Very Truly Yours,



Christopher Chenoweth  
EVP / CAO/ and General Counsel  
Fremont Bank