Massachusetts Bankers Association

May 14, 2015

Robert deV. Frierson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D.C. 20551

Robert Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation (FDIC)
550 17th Street NW
Washington, DC 20429

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
Mail Stop 9W-11, 400 7th Street SW
Washington, DC 20219

RE: Docket ID FFIEC-2014-0001 or Docket No. R-1510

To Whom It May Concern:

The Massachusetts Bankers Association (MBA) appreciates the opportunity to provide comments on the Regulatory Publication and Review Under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA). The MBA serves 170 member banks located throughout the Commonwealth and New England with many of our members having longstanding and dedicated ties to their communities. Additionally, our members have an avid interest in meeting the standards of the compliance and safety & soundness exam cycles with strong performance year-over-year.

This EGPRA period is well-timed as we believe there are several changes that must be considered as banking and the financial services industry have transitioned to new mediums of digital and electronic platforms of operations. Within this specific proposal there are several outdated regulations. More importantly, we see other opportunities to discuss possible changes to both the exam cycle and the regulations with which banks must comply.

**MBA Comments on the EGRPRA Proposal and Regulations Considered**

- Availability of Funds and Collection of Checks
  While there has been some progress over the years relative to changing Regulation CC, some very specific components of the regulation remain outdated. Specifically, section 229.13 contains language regarding the processing of exception holds and the requirement to either provide at the time of deposit or by postal mail within 1 business day, a written notice to the consumer. This process is still employed by many community banks that cannot absorb significant losses. Nevertheless, the examination of this regulation and the requirement of providing written notice to the consumer (a form that holds little value to most customers) should be amended to include language relative to electronic communication, at the least.

- Reserve Requirements of Depository Institutions
  The continued enforcement on Money Market Deposit Accounts (MMDA) and savings accounts of the limit on ATM and electronic banking transfers to 6 per month is unrealistic and outdated. This is burdensome to both consumers and banks: Customers today expect easier access to their funds and many customers do not even visit bank branches to conduct their business. Routinely, when customers violate the 6 transaction limit and receive the required warning from their bank, they express frustration and confusion as to why they cannot move their money as they see fit.

  Our member banks are troubled by this requirement both in terms of overhead costs as well as required compliance by dedicated staff. In addition, this transaction limit may, in some cases, cause consumers to overdraw their accounts if they have established automatic transfers between accounts subject to the limit. A change to this regulation would be especially relevant in light of the recent Dodd-Frank Act (DFA) changes allowing interest on business checking.

- Prompt Corrective Action – Capital
  In consideration of 12 CFR 6.3, the MBA is concerned with the Consolidated Reports of Condition and Income, alternatively known as the Call Report. Far too often we hear our members express frustration relative to the expansion and growth of the schedules, sub-reports and data required to complete the quarterly Call Report. We firmly believe that while good data is required and is critical to the continued assessment of the safety and soundness of the banking and financial services sectors, the Call Reports filed 4 times per year and with more than 75 schedules, each containing line item calculations and a high potential for error even in consideration of the proper controls is extremely burdensome, particularly to smaller institutions.

  We would suggest that a risk assessment criterion be considered with regards to the Call Report filings. For areas deemed high-risk, the banks would continue to file the appropriate schedules on a quarterly basis, with the lower-risk portions of the Call Report adjusted to an annual filing. This would be a demonstrative change and reduce a significant burden for many of our members.

- Community Reinvestment Act (CRA)
  The thresholds for large, small-intermediate and small banks should be reviewed for possible changes as the last significant change occurred in the mid-2000s. This will be the first time we touch upon the need to tie certain regulatory evaluations to an index, and while the CRA thresholds are evaluated annually and adjusted, the overall brackets and definitions of small and small-intermediate institutions should be more comprehensively evaluated. Today, a small-intermediate institution is defined as having assets between $300 million and $1.2 billion. Consolidation in the industry has placed many banks, including a large number of our members within this threshold. One approach would be to adjust the intermediate-small minimum asset size to at least $500 million. This would better stratify the industry and more properly place banks in the correct thresholds for today’s modern banking system.

The definitions and guidelines for the CRA exam should also be reviewed. Perhaps written opaquely on purpose, it is our opinion that the relative flexibility in many of the CRA standards has detrimentally affected a number of our members during examination. Recommendations and outcomes of CRA evaluations are very different from regulator to regulator and from examiner to examiner. This speaks to a larger issue that we will discuss below relative to tailored examination. Specifically, the definition of a bank's CRA assessment area is determined by the bank and its board of directors. There have been reports, however, that many community banks have received recommendations to expand assessment areas into counties and municipalities where the bank does not have a physical presence and therefore limited potential to increase their CRA-eligible activities. A clearer definition of a required assessment area will prevent (or at least reduce) the potential for exam issues, which often hinder a potentially productive discussion on community involvement, local small-business lending and other more critical CRA-related topics.

Finally, the mandatory tracking and reporting of small business loans in excess of $1 million should be reviewed and possibly adjusted. The intent of the CRA was not to create excessive documentation, but instead spur community development and opportunity into underserved communities. A tailored approach to small business reporting would identify a possible index (housing prices or the inflation rate are two examples) that could be used to adjust the amount required for tracking during examinations. This would make the loans that should be reviewed and the bank's lending habits themselves easier to examine at a critical level.

**<u>Other Items for Consideration</u>**

- <u>Bank Secrecy Act (BSA)</u>
  In seeking feedback on the current proposal and reviewing the initial proposal, we would like to submit comments relative to BSA and specifically discuss the suspicious activity thresholds and mandatory Currency Transaction Reporting (CTR) requirements. We would reiterate that a tailored approach to regulation would greatly enhance the banking industry's ability to comply and the value of the work relative to a critical service the banking industry completes for the United States. The dollar amount for CTR reporting has remained at $10,000 and should be adjusted, if possible despite statutory restrictions, to more properly recognize the value of today's dollar.

  Moreover, bank monitoring for suspicious transactions generally begins between $3,000 and $5,000. As the industry has evolved and new payment channels have emerged, there has been a significant increase in both the volume and size of transactions that must be monitored. Nearly all banks rely on some form of automation to assist with this monitoring, however, many members report continued expansion of resources (i.e. people) to properly track and review this data and assure compliance with regulatory expectations. As banks have a significantly larger volume of transactions above $3,000 today than 25 years ago, we request that the dollar values for monitoring levels be reviewed to ensure they are still, in fact, the appropriate thresholds.

The expectations for BSA compliance go beyond the scope of the FFIEC examination manual in many cases. Risk assessments require even greater detail, and automated software systems now must be validated and audited annually. While these requirements are necessary to ensure the safety and soundness of the banking system, there are tradeoffs that can be applied relative to reducing the amount of paperwork (even if it is completed electronically as CTRs are) produced and manpower exerted to comply.

- Examination Observations

  The regulators have done an excellent job in employing a risk-based approach to examination in the last decade, particularly with regards to the many new or altered regulations after the enactment of the DFA. There is an argument that can be made that the banking industry needs additional clarification on how the risk assessment process is completed prior to examination. Is the risk assessment based on historical CAMELS and compliance / CRA ratings? While it has been clear that the risk assessment includes a review of the balance sheet and products and services offered by the bank, more definitive guidelines would assist banks that are committed to operating in a compliant and safe manner.

  Furthermore, we believe that it is appropriate to review the examination schedule and continue to foster a tailored approach to regulation. Presently, many banks are examined every 18 months by their federal and state regulators for safety and soundness. The regulators should consider the efficacy of this practice and whether or not a minimum timeframe of 24 months would be more prudent, especially for well-managed and lower risk banks.

  Lastly, additional guidance is needed relative to bank policies and the expectations for their content. Too often, it appears that bank policies provided to boards of directors contain too much detail based on internal audit and examination recommendations. There is a sense from many bankers that policies are becoming procedures and drawing management away from operating the institution to monitor compliance matters. Directive guidance from the regulatory agencies would better assist banks in constructing their policies and then implementing procedures during daily and ongoing operations.

**Conclusion**

It is our opinion that the proposal and the review process have high potential to effect positive change for both banks and the regulatory agencies. At a minimum, we would advocate that all regulations containing nominal or mandatory compliance level be updated to more accurately reflect today's dollar-value or be tied to a pricing index. Additionally, there is opportunity to streamline a number of requirements that do not currently provide the means to comply through electronic channels.

On behalf of our members, thank you for this opportunity to comment on the review process and also participate in the hearing on May 4th in Boston. If you have questions or need additional information, please contact me at (617)-502-3820 or via email (bcraigie@massbankers.org).

Sincerely,

Ben Craigie
Director of Compliance