

From: Walters, Kelly <KWalters@fsb.bank>
Sent: Tuesday, March 10, 2020 3:21 PM
To: Comments
Subject: [EXTERNAL MESSAGE] RIN 3024-AF22
Attachments: Comment to Proposed Joint Statement.3 5 2020.pdf; Exhibit A Deposits v Market Share Data.pdf

Please see attached for comments submitted by Compliance Officer, Karen Vergosen and Chief Risk Officer, Kelly Walters, on behalf of First State Bank regarding the proposed changes to CRA.

Please advise if you are unable to open the attachments.

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Comments regarding the joint proposed rulemaking
COMMUNITY REINVESTMENT ACT REGULATIONS.
RIN 3064-AF22

Dear OCC and FDIC,

We are an \$800,000 asset-sized Community Bank located in Oakland and Macomb Counties in Michigan. We wholeheartedly welcome the OCC's and FDIC's attempt to: 1) clarify which activities qualify for Community Reinvestment Act ("CRA") credit, 2) update where activities count for credit, 3) create a more transparent and objective method for measuring CRA performance, and 4) providing more transparent, consistent, and timely CRA-related data collection, recordkeeping, and reporting. In theory, we are very supportive.

The fact that the Federal Reserve has not endorsed this "joint statement", however, raised an immediate cause for concern. A thorough reading of the proposed amendments to reform and strengthen the CRA justified our concerns. The amendments, as proposed, would very likely have a decidedly adverse impact on low to moderate income ("LMI") neighborhoods, albeit unintended. Accordingly, we recommend a couple of areas where improvements should be considered.

Of greatest concern is the proposed expansion of a bank's deposit-based assessment area "where it receives five percent or more of its total retail domestic deposits, based on the physical addresses of its depositors." This will effectively exempt large banks who may not have a 5% concentration of deposits in any particular geographic location but would have a majority of the market share.

In fact, 64.78% of the market share of deposits in Michigan are held by six financial institutions. See Exhibit A. Two of these (JPMorgan Chase and Bank of America) have more than \$1.3 billion in deposits. Although they boast \$44.6 billion and \$22.9 billion of deposits in Michigan, this only amounts to 3.4% and 1.69%, respectively, of their total deposits. *Id.*

Diving a little deeper, each of these institutions also has a large market share of deposits in Macomb, Oakland, and Wayne Counties as follows:

JPMorgan Chase Bank, Nat'l Association (\$000)		
Total Deposits	\$	1,311,219,000
Macomb Deposits	\$	2,518,521 0.19%
Oakland Deposits	\$	8,118,318 0.62%
Wayne Deposits	\$	24,773,927 1.89%

Bank of America, National Association (\$000)		
Total Deposits	\$	1,353,686,805
Macomb Deposits	\$	2,197,079 0.16%
Oakland Deposits	\$	14,489,979 1.07%
Wayne Deposits	\$	3,710,282 0.27%

Although JPMorgan Chase and Bank of America enjoy about 30% of the total market share of deposits in Michigan, these financial institutions don't come anywhere close to 5% of their respective total deposits.

To qualify under the 5% rule, JPMorgan Chase and Bank of America would *each* have to have more than \$65 billion in deposits in any given area. Thus, for Wayne County, which is home to a significant number of LMI neighborhoods, their combined total share of \$30 billion of deposits is not sufficient. First State Bank, on the other hand, would only need to have about \$35.7 million in deposits to reach the 5% threshold.

FIRST STATE BANK (\$000)			
Total Deposits	\$	714,835	
Macomb County	\$	714,715	100.00%
Oakland County	\$	120	0.02%
5% of deposits:	\$	35,742	

Adding insult to injury, First State Bank's deposits in its assessment area (i.e. Macomb and Oakland Counties), amounts to a total of just under \$715 million. JPMorgan Chase has over \$10 billion and Bank of America has almost \$17 billion in these same counties. Nevertheless, these substantial deposits of the big banks fall far short of the 5% threshold.

The disparate impact the proposed rule would have on Community Banks is once again unduly burdensome while the big banks are free to manipulate the system to avoid qualifying for CRA in areas where they should be held most responsible. More importantly, it will take away resources critical to the needs of LMI neighborhoods. If the Agencies truly desire to make an impact for purposes of assisting low to moderate income neighborhoods, they would be well-advised to consider *market share* instead of percent of an institution's deposits.

The proposed rule tries to support its approach alleging that banks would be afforded "flexibility" to serve other communities with distinct needs as activities in these areas would be calculated in the dollar value of qualifying activities. Offering credit for activities outside of a bank's current assessment area is a great idea. With all due respect, however, it is difficult to comprehend how mandating an expansion of an assessment area for purposes of CRA based upon a percent of total deposits is in any means a "flexible" opportunity.

The second area of concern for First State Bank is the proposed "Objective Method" to measure CRA activity. As an initial observation, including different performance standards for small banks is theoretically great, but the \$500 million cap should be raised to at least \$1 billion. Similarly, clarifying the activities and expanding the scope of activities that qualify is a great idea; however, these new proposals apply to *all* banks, regardless of size or business model.

Most notably, the formula provided for calculating the quantified value of qualifying activities is based upon monetary criteria. A one-size-fits-all formula is an inherent advantage to the larger banks that can calculate exactly how much money they need to "invest" (quite possibly in a one-time project) to achieve a satisfactory rating on their next CRA exam.

The proposed rule should consider some sort of a sliding scale or criteria that adjust to the needs of LMI neighborhoods, the services each bank offers, and resources available to those banks. Retail services, volunteering at community events, being a leader in a community are all factors that cannot be adequately evaluated based upon a monetary value. Instead of measuring the monetary value of loan amounts, perhaps the *number* of loans closed or the *number* of LMI families served would result in a more honest evaluation of effective CRA activities.

Devising metrics that clarify what and how much will qualify for CRA that are tailored to the needs of the LMI neighborhoods while taking into consideration the various types and sizes of banks that serve these communities, will be a challenge. More time should be given to explore other formulas or additional metrics that will acknowledge the unique differences between national banks and local community banks in order to more meaningfully serve the credit and retail needs of their respective markets.

EXHIBIT A

JPMorgan Chase Bank, Nat'l Association

HQ in OH

Total Deposits	\$	1,311,219,000	
Total MI Deposits	\$	44,613,563	3.40%
Macomb Deposits	\$	2,518,521	0.19%
Oakland Deposits	\$	8,118,318	0.62%
Wayne Deposits	\$	24,773,927	1.89%

Comerica Bank

HQ in TX

Total Deposits	\$	56,319,000	
Total MI Deposits	\$	28,994,216	51.48%
Macomb Deposits	\$	3,153,370	5.60%
Oakland Deposits	\$	5,762,167	10.23%
Wayne Deposits	\$	16,951,902	30.10%

Bank of America, National Association

HQ in NC

Total Deposits	\$	1,353,686,805	
Total MI Deposits	\$	22,875,208	1.69%
Macomb Deposits	\$	2,197,079	0.16%
Oakland Deposits	\$	14,489,979	1.07%
Wayne Deposits	\$	3,710,282	0.27%

PNC Bank, National Association

HQ in DE

Total Deposits	\$	269,409,234	
Total MI Deposits	\$	17,106,666	6.35%
Macomb Deposits	\$	1,143,563	0.42%
Oakland Deposits	\$	7,143,480	2.65%
Wayne Deposits	\$	17,106,666	6.35%

The Huntington National Bank

HQ in OH

Total Deposits	\$	83,611,387	
Total MI Deposits	\$	16,859,752	20.16%
Macomb Deposits	\$	2,293,824	2.74%
Oakland Deposits	\$	4,377,888	5.24%
Wayne Deposits	\$	1,063,658	1.27%

Fifth Third Bank

HQ in OH

Total Deposits	\$	129,922,273	
Total MI Deposits	\$	16,757,075	12.90%
Macomb Deposits	\$	1,057,824	0.81%
Oakland Deposits	\$	2,818,134	2.17%
Wayne Deposits	\$	1,527,212	1.18%

FIRST STATE BANK

HQ in MI

Total Deposits	\$	714,835	
Macomb County	\$	714,715	100.00%
Oakland County	\$	120	0.02%
5% of deposits:	\$	35,742	