PACIFIC WESTERN BANK

Submitted via email: comments@fdic.gov

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064-AF81

Community Reinvestment Act

Comments to Joint Notice of Proposed Rulemaking

Pacific Western Bank (the "Bank") is supportive of the efforts to build a new framework to modernize the regulations that implement the Community Reinvestment Act (CRA). The Bank appreciates how the changes will be undertaken following a joint rulemaking process involving all federal financial supervisory agencies. As a state-chartered commercial bank with over $40 billion in assets and headquartered in California, the Bank believes modernizing the rules implementing the CRA would further its effectiveness and performance in delivering community development activities.

In response to the notice of proposed rulemaking referenced above, the Bank is commenting on the following topics:

- Retail Lending Test Evaluation Framework
- Assessment Areas and Areas for Eligible Community Development Activity
- Use of Section 1071 data
- Evaluation of multifamily lending
- Evaluation of branch locations in low- and moderate-income census tracts

Lending Test Evaluation Framework

The agencies propose a standardized approach involving the application of new and complicated formulas for measuring an institution's performance. The Bank recognizes the use of metrics is with the intent of ensuring CRA expectations are transparent and regulations are interpreted and applied consistently.

The agencies must ensure the metrics used to measure performance are calibrated appropriately, otherwise the outcomes would be disastrous. Furthermore, the banking industry, bank examiners, and the interested public will need training on how to apply and understand the new evaluation framework.

It is generally acknowledged that standardized metrics and benchmarks omit other factors useful for reaching accurate conclusions about performance. The Bank hopes a metric-based approach does not overshadow the *qualitative* aspects of its community development activity.

Assessment Areas and Areas for Eligible Community Development Activity

Assessment areas are a central concept of the CRA and must not be ignored during this process of modernizing the CRA. The Bank agrees the assessment area delineation should not be restricted to the location of a physical deposit-taking branch. In fact, the Bank supports the promotion of community development activity outside of the assessment areas to underbanked and undercapitalized markets if it has been responsive to the needs within its assessment areas, and the activity demonstrates higher impact and responsiveness.

The proposed rules for establishing retail lending assessment areas include a loan volume trigger. There is concern about whether the lending levels within a particular Metropolitan Statistical Area (MSA) are sufficient to trigger delineation of a retail lending assessment area. Specifically, a bank's lending activity should not be evaluated only because the number of small business loans originated in an MSA exceeds 250 loans over a two-year period. This volume may or may not reflect a meaningful market presence for some banks. Further, with the proposed changes to define small business loans based on the revenue size ($5 million) rather than loan size ($1 million) there will likely be an increase in the number of loans within certain MSAs, even though the area is not part of the bank's primary market strategy.

The focus should remain on communities where the majority of deposits are gathered and the majority of loans are originated or purchased. This is the core purpose of the statute, to measure a bank's *reinvestment* activities. Moreover, setting a low threshold for assessment area delineation could have the unintended effect of diverting community development activities away from areas identified by the bank, as well as the community, as its primary markets.

Use of Section 1071 Data

The CFPB Section 1071 rulemaking has been much-anticipated. The addition to current CRA small business and small farm data collection and reporting requirements with Section 1071 will be a technological challenge coupled with implementation of new CRA rules occurring at the same time.

Given the complexities of the rule changes and expanded data collection and reporting requirements, it seems more reasonable to extend the implementation period for the rule changes beyond the proposed 12 months.

Evaluation of Multifamily Lending

The evaluation of multifamily loans only under the Community Development Financing Test has merit. Clearly, the measurement is rightly focused on the affordability of the multifamily units to low- and moderate-income (LMI) residents.

In cases where the *location* of the multifamily property supports community stabilization or revitalization efforts, the expectation is a bank would receive CRA consideration. The consideration would be given for the impact of the loan under the Community Development Financing Test, particularly when the loan's express community development purpose aligns with a local written mandate or plan.

Evaluation of Branch Locations in Low- and Moderate-Income Census Tracts

It would be unreasonable to draw conclusions about whether a bank's branches are accessible to individuals of different income levels and to businesses in the assessment area by *only* relying on a calculation of physical branch distribution.

If a branch is located in an upper-income census tract, yet is situated a short distance from an LMI census tract, clearly it would be reasonable to assume the branch is accessible to individuals of varying income levels and to small businesses. Any analysis of "branch access" based on the number of branches of financial institutions found within a certain distance of the census tract's center of population may be more informational than useful, for measuring compliance under the Retail Services and Products Test.

The Bank understands the Retail Services and Product Test will use a predominantly *qualitative* approach that also takes into consideration branch availability, remote service facilities, and digital and other delivery systems, especially for banks with assets of over $10 billion.

In conclusion, thank you for considering these comments. Again, we appreciate how this process will involve all federal banking agencies and we look forward to any future opportunity to provide additional comments about the proposed rule.

Sincerely,

[redacted]

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