



October 3, 2022

Via Electronic Submission

James P. Sheesley, Assistant Executive Secretary
Federal Deposit Insurance Corporation

Attention: Comments — RIN 3064-ZA33

Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

RE: Cross River Bank's Comments, Policy Statement on Prudent Commercial Real Estate Loan Accommodations and Workouts

Dear Mr. Sheesley,

On behalf of Cross River Bank (“Cross River or “the Bank”), I thank you for the opportunity to comment on the Federal Deposit Insurance Corporation’s (FDIC) Office of the Comptroller of the Currency’s (OCC), and National Credit Union Administration’s (NCUA) (the “Joint Agencies”) proposed policy statement with request for comment on Prudent Commercial Real Estate Loan Accommodations and Workouts [released on August 2, 2022 as RIN 3064-ZA33] (the “Proposed Policy Statement”). Cross River is a New Jersey state-chartered FDIC-insured bank that provides technology infrastructure powering the future of financial services to serve communities across the nation. As part of our banking operations, Cross River originates and services approximately \$500 million in Commercial Real Estate (CRE) loans each year. Primarily Cross River, sources, originates, and services loans for multi-family, affordable housing, and mixed-use properties in the New York, New Jersey, and Connecticut metro areas. In this activity, Cross River pursues a personalized approach in helping property owners, investors, brokers, and institutions identify the right commercial loan products and takes efforts designed to ensure that borrowers will be able to meet their loan obligations.

In accordance with the FDIC’s *Interagency Guidelines Establishing Standards for Safety and Soundness*, Cross River has established and maintained prudent credit underwriting practices to originate its CRE loans. In addition to these practices, Cross River has established practices to accommodate borrowers in the event that they experienced hardships in repaying their CRE loan.

While Cross River established these accommodation practices prior to the Covid-19 Pandemic as part of its initial CRE lending program, the Bank did not need to engage in loan accommodation activities, because none of its CRE borrowers experience repayment hardships prior to the

Pandemic. However, during the Pandemic, Cross River, like many other financial institutions needed to engage in CRE loan accommodations. Central to Cross River's CRE loan accommodation practices are strong due diligence processes that ensures safe and sound loan servicing, while engaging with borrowers experiencing repayment hardships in a manner that fits their unique situation. Specifically, Cross River proactively engaged with borrowers that it identified as experiencing repayment hardships. The Bank then reassessed borrowers based on the specific parameters of their loan and developed repayment plans that alleviated the pressure experienced by the borrower and fit their ability to repay the loan in a timely manner. Moving out of the Pandemic, Cross River appreciates the importance of the Joint Agencies' Proposed Policy Statement.

As stated by the Joint Agencies, the Proposed Policy Statement is "intended to promote supervisory consistency among examiners, enhance the transparency of CRE loan accommodation and workout arrangements, and ensure that supervisory policies and actions do not inadvertently curtail the availability of credit to sound borrowers".¹ Overall, Cross River agrees with the intent of the proposed changes to the existing Policy Statement and appreciates the opportunity to comment on the proposed Policy Statement. In general, the amendments identified in the proposed policy statement provide clarity and helpful guidance on how examiners should engage with financial institutions that have pursued loan accommodations and workouts in their CRE lending. To assist the agencies in their endeavor, specific responses to the questions posed in your request for comment are detailed below.

The Joint Agencies Should Incentivize Proactive Engagement with Borrowers

The Proposed Policy Statement highlights the importance of financial institutions identifying and using various repayment tools to mitigate adverse effects on borrowers, such as short-term and long-term loan accommodations. To help ensure that financial institutions effectively identify and use these repayment tools, the Joint Agencies should include additional language in the Proposed Policy Statement that explicitly discusses the prudent quality of proactive engagement between financial institutions and CRE borrowers and explain how examiners should evaluate financial institutions that employ such policies and practices.

Throughout the Pandemic, Cross River proactively identified and engaged with its borrowers that experienced hardships in repaying their CRE loans. This proactive engagement provided the Bank with the ability to engage in safe and sound assessment practices—such as requesting and obtaining updated financial and property information through standardized forms—in a timely and structured manner. In turn, this enabled the Bank to then tailor appropriate repayment structure to the individual borrower in a way that addressed the specific repayment challenge and allowed them to repay the CRE loan in a timely manner. Given the identified benefits of proactive engagement with borrowers experiencing hardships in repaying their CRE loans, the Joint Agencies should encourage financial institutions to engage in such actions by explicitly

¹87 Fed. Reg. 47276 (August 2, 2022).

detailing the role of proactive engagement with borrowers in the proposed policy statement's prudent practices for engaging in CRE loan accommodations and workouts.

The Joint Agencies Should Continue to Provide Additional Guidance on Permissible Examiner Flexibilities for Loan Accommodation Assessments

In the Request for Comment with the Proposed Policy Statement, the Joint Agencies asked what, if any, additional information should be included to optimize the guidance for managing CRE loan portfolios during all business cycles and why.² The various examples of CRE loan workout arrangements provided in Appendix 1 of the Proposed Policy Statement are helpful in demonstrating examiners' analytical process to derive appropriate classifications and evaluating the implications of the various workout arrangements. However, given the nuances of CRE loan portfolios and exposure to the effects of various business cycles and macroeconomic issues, it would be beneficial for the Joint Agencies to provide additional guidance on permissible examiner flexibilities for loan accommodation assessments, so financial institutions may effectively tailor their assessment repayment tools to the specific economic and borrower facts and circumstances while ensuring that they have the necessary regulatory clarity to do so.

Specifically, the Joint Agencies should work proactively to develop a process for identifying and including additional scenarios that demonstrate examiners' thought processes regarding CRE loan accommodation practices that would likely be pursued during various periods and types of macro and microeconomic stress. To ensure effective implementation of this process, the Joint Agencies should allow knowledgeable stakeholders, such as academics, economists, and industry professionals, the opportunity to submit potential macro and micro economic scenarios for the joint agencies to consider. In response, the joint agencies should consider these submissions and issue updated examples of examiners' analytical process for deriving appropriate classifications and evaluations during the pendency of identified macro and micro economic events, as the Joint Agencies deem necessary or appropriate.

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Cross River's focus on developing prudent due diligence processes combined with a personalized approach in helping property owners, investors, brokers, and institutions identify the right commercial loan products and ensure that borrowers can meet their loan obligations has helped the Bank mitigate default risks for borrowers experiencing repayment hardships. As noted above, the proactive approach and ability to tailor repayment plans to specific borrower needs has resulted in positive results for both Cross River and its CRE borrowers. We greatly appreciate the Joint Agencies' consideration of our recommendations. Please feel free to reach out to Phil Goldfeder, SVP Public Affairs at pgoldfeder@crossriverbank.com or 201-808-7234

²Id. at 47275.

with any additional questions. We look forward to continuing to engage with FDIC officials regarding the Proposed Policy Statement.

Sincerely,



Ian P. Moloney
Head of Policy and Regulatory Affairs | Cross River Bank