

May 13, 2024

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Ann E. Misback Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551
regs.comments@federalreserve.gov

James P. Sheesley
Assistant Executive Secretary
Attention: Comments
RIN 3064-AG03
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: **Community Reinvestment Act; Supplemental Rule** (89 FR 22060)
OCC: Docket ID OCC-2022-0002
Federal Reserve: Docket No. R-1830 and RIN 7100-AG75
FDIC: RIN 3064-AG03

To Whom it May Concern:

The National Community Reinvestment Coalition (NCRC) appreciates the opportunity to comment on the Community Reinvestment Act (CRA) supplemental rulemaking related to the agencies' CRA final rule issued on October 24, 2023, and published in the Federal Register on February 1, 2024 (2023 CRA Final Rule).

NCRC and our over 700 member organizations use CRA daily to increase lending, investment, and services in traditionally underserved communities. A robust CRA is key to our efforts, and a critical component of a robust CRA is public engagement.

The agencies are adopting an interim final rule that amends, and requests comment on, the public file provision included in the 2023 CRA Final Rule. Access to CRA public files is absolutely necessary to ensure meaningful public engagement – but despite this fact, the agencies are issuing an interim final rule to delay the applicability date and the public file provision in the 2023 CRA Final Rule that requires banks to include their CRA public file on their website from April 1, 2024, to January 1, 2026.

A two-year delay to the requirement that banks post their CRA public file on their websites is a blunt, drastic solution to a minor problem for which a more tailored approach is simple and straightforward. As the Chinese proverb goes, do not remove a fly from your friend's forehead with a hatchet!

Supplemental Rulemaking

As described in the Supplemental Rulemaking, “Under the agencies’ legacy CRA regulations, a bank’s entire public file must be available for public inspection upon request at no cost: (1) at its main office; and (2) if a bank operates in more than one State, at one branch office in each of these States. *The 2023 CRA Final Rule revised the agencies’ legacy CRA regulations to require any bank with a public website to include its CRA public file on its website.*”¹ (Emphasis added.)

The supplemental rulemaking goes too far, and there is a solution that does not risk potential confusion.

The agencies take it too far by proposing to move the applicability date of this entire provision from April 1, 2024, to January 1, 2026, in order to “alleviate potential confusion in complying with the public file requirements and promote greater stability and certainty for banks and other stakeholders in transitioning to the provisions of the 2023 CRA Final Rule.”²

During the transition period as banks and regulators transition away from the legacy CRA rule and implement the new CRA rule, there is naturally some uncertainty about the CRA public file requirements relative to *some* of the contents. But there is nothing confusing or uncertain about other contents, or about the requirement that banks that maintain a public website include their CRA public file on their website.

There are numerous CRA public file contents about which there is no potential for uncertainty or confusion during the transition period from the legacy rule to the new CRA rule. Banks are already required to maintain certain information – they should make it available to the public on their websites. Specifically, the agencies should require that banks make these items available on their websites effective April 1, 2024:

- Written comments received from the public during the current year and each of the prior two calendar years;
- A copy of the public section of the bank's most recent CRA performance evaluation;
- A list of the bank's branches, their street addresses, and census tracts;
- A list of branches opened or closed by the bank during the current year and each of the prior two calendar years, their street addresses, and census tracts;
- A list of retail banking services (including hours of operation, available loan and deposit products, and transaction fees) generally offered at the bank's branches and descriptions of material differences in the availability or cost of services at particular branches, if any;
- A bank that has been approved to be evaluated under a strategic plan must include in its public file a copy of that plan while it is in effect.

¹ Federal Register / Vol. 89, No. 62 / Friday, March 29, 2024. Page 22063.

² Ibid.

The CRA public file provisions of the legacy rule hinder transparency and public engagement.

The legacy CRA rule requires that banks make their CRA public file available upon request. This hinders public engagement in several ways.

First, bank merger comment periods are very short – only 30 days. Requiring the public to request a CRA public file can delay the availability of information by several days in an already very short comment period.

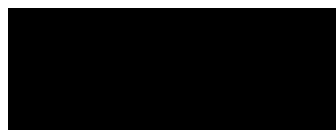
Second, public engagement with banks that have elected to be evaluated under strategic plans would be greatly enhanced if these plans were posted on banks' websites. There is no logical reason to require members of the public to go through the hurdle of submitting a request to a bank to see a copy of their CRA strategic plan. There are currently 69 banks that have elected the strategic plan CRA evaluation method, including 17 of the top 100 banks in the US by asset size. Among the 17 top 100 banks that are evaluated using the CRA strategic plan method, only 3 have made their CRA public file readily available on their websites. How can the public possibly assess these banks' record of meeting the credit needs of the communities they serve if these banks' CRA public file and their strategic plans are not available, or very difficult to locate, on the bank's website?

Transparency is a key component to meaningful public engagement, which in turn is necessary to ensure that banks meet their obligation to meet the credit needs of the communities in which they do business.

A two-year delay in requiring the online posting of some of the most basic and fundamental CRA public file contents is unnecessary and suppresses public engagement. Instead, the agencies should revise the supplemental rule to require that banks post their CRA public file on their websites, effective April 1, 2024, with exceptions for contents that are subject to change under the new CRA rule and would not apply until January 1, 2026. But there is no reason to delay making available online most of the contents of the CRA public file: written comments, the bank's CRA performance evaluation, a list of branches, a list of branch openings and closings, a list of retail banking services, and, if applicable, the bank's CRA strategic plan.

Thank you for the opportunity to comment on this important matter. If you have any questions please do not hesitate to contact me at jvantol@ncrc.org or Kevin Hill, Senior Policy Advisor, at khill@ncrc.org.

Sincerely,



Jesse Van Tol

President and CEO