



April 7, 2020

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attention: Comments, RIN 3064-AF22

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219
Docket ID OCC-2018-0008

Re: Community Reinvestment Act Regulations

Dear Madam or Sir:

The California Bankers Association ("CBA") writes this letter on behalf of the FDIC-insured depository financial institutions doing business in the state of California. CBA, established in 1891, is a division of Western Bankers Association, a professional non-profit organization for banks doing business in 13 western states and 3 U.S. territories. CBA frequently provides comments to regulatory proposals by the federal banking agencies.

This letter addresses the proposal under the Community Reinvestment Act regulations, (12 CFR Part 345), which encourages insured depository institutions to help meet the needs of the communities in which they are doing business through safe and sound lending to all areas of a bank's community including low- and moderate-income neighborhoods (the "Proposal").

We appreciate the opportunity to provide comments on the proposed revisions to the Community Reinvestment Act regulation jointly promulgated by the Office of Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC). We note that the Federal Reserve Board has not joined in the proposed rulemaking, but we look forward to the continued work by all three banking agencies toward adoption of a common final rule.

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We applaud the work of the OCC and FDIC to advance this proposal which seeks to modernize and clarify the CRA implementing regulations that have remained unchanged since their original adoption in 1995 notwithstanding the substantial changes to the banking landscape such as the provision of mobile and digital banking products and services.

We are generally supportive of the efforts to modernize these regulations. We do note that some areas of the proposal could be reworked to avoid potential burdensome requirements and unintended consequences. As written, the proposal (1) clarifies and expands the types of activities that a bank may undertake which would qualify for CRA credit (2) expands the geographic area in which qualified activity may take place (3) establishes an objective measure for CRA activity and, (4) establishes guidelines for data collection, recordkeeping and reporting of CRA activities to banking regulators. Further, we strongly support the degree of regulatory flexibility given to small community banks which may choose to opt-in to the new CRA system or be evaluated under the current CRA regulations.

Qualifying activities

CBA supports the requirement that agencies establish well-defined criteria for the types of activities that qualify for CRA credit so that banks have a clear understanding of what actions are considered "qualified activities". Under the proposal, these activities include criteria for small business and farm loans, and in particular, raise the dollar cap for business and farm loans in low- and moderate-income (LMI) communities, as well investments and loans to support essential community facilities like schools, hospitals and essential infrastructure. In addition, because our bankers invest so much time and labor in support of their communities throughout each year, we support the inclusion of volunteer hours in the concept of CRA qualified activities.

We also applaud the provisions that place an obligation on agencies to periodically publish a list of examples of qualified and non-qualified activities as well as set up a process for banks to timely obtain agency confirmation that a particular action meets or does not meet the definition of a "qualified activity". We do note that the six-month timeframe for this agency confirmation appears unduly lengthy and should be adjusted to a shorter time period that would allow community banks the ability to ensure that their CRA activities do qualify in a reasonable and more timely manner.

Lastly, we do have some concern with the valuation of loans sold within 90 days of origination only receiving 25% of their value towards qualifying activity. For instance, some of our members do sell their qualifying loans within 90 days of origination for various business purposes, however under this proposal, these banks would no longer receive full credit for these loans and instead would only receive 25% of their valuation. Although these banks are taking part in activity that supports the goals of CRA within their communities, the proposed 90-day mandate would make it increasingly difficult for these banks to meet their CRA requirements and could serve as a disincentive to participate in this type of lending.

Assessment Areas

CBA supports the expansion of the geographical area in which qualified activity may take place. With the use of internet banking by bank customers located far from any bank branch or ATM, an expansion of the CRA activity of a bank to serve LMI customers beyond the bank's physical location of the bank is sorely needed. The proposal's revisions which allow a bank to receive CRA credit for activities not only in the geographical area of the bank but also in the geographical area of customers allows banks to better serve low-income borrowers wherever they are located. Giving bankers the ability to choose the geographic level of their assessment area as well as permitting banks to receive CRA credit when investing in remote areas beyond their assessment area with limited access to banking services encourages banks to provide needed support to under-served LMI communities.

We do note some areas of concern and perhaps an unintended consequence regarding the deposit-based assessment areas. In the proposal a bank must designate any area in which it receives 5% or more of its retail domestic deposits as one of its assessment areas. For larger institutions using the 5% requirement could result in these assessment areas being placed in urban areas at the exclusion of rural areas. We believe this is an unintended consequence and that an effort should be made to ensure larger institutions will be able to designate rural areas as an assessment area. In addition, the new requirement that facility-based and deposit-based assessment areas encompass an entire county would be unworkable for some of our community banks. For example, a community bank may have one branch in a small portion of a geographically large county. Under this proposal, this bank would be required to service the entire county despite their current focus in one specific area of that county and as a result could unreasonably force them to open more branches in this county to be able to effectively provide service.

Measuring CRA Performance

CBA strongly supports the establishment of objective performance standards which will result in a clearer and more predictable scoring method by the regulators. As noted previously, we also support the flexibility afforded community banks (assets under \$500 million) to choose or decline to opt into the new performance standard. However, for California banks, we do believe the \$500 million option is too low and should be revisited.

We note that the proposed rules measuring CRA performance have some complexity and opacity. We believe the performance standards should be clearer and readily understandable for banks of all sizes and in particular, community banks. Accordingly, we urge that the performance standards undergo further clarification and testing before final implementation.

Data Collection, Recordkeeping and Reporting

CBA recognizes that for regulators to effectively evaluate banks under the new performance standards, significant modifications are proposed adding additional obligations on institutions to collect, record and report data. We note that the imposition of these new and revised duties on

banks may create additional regulatory burdens and costs for these institutions. Some of these new data collection requirements will mandate data be obtained by the bank that is not currently collected or is not readily available. These new requirements would force our community banks to expend significant additional resources on collecting, processing and validating data. Expenditures may include obtaining significant software upgrades and hiring additional staff to meet the new requirements. We urge regulators to continue to monitor and test the effectiveness of this new data collection, recordkeeping and reporting process after adoption of these proposed regulatory changes to assure that necessary revisions are made to more efficiently achieve the data goals and eliminate unnecessary burdens on our institutions.

Lastly, we appreciate the rule's proposed transition period that allows a bank time to prepare. We recommend that regulators put processes and resources in place to provide timely assistance and support for our members in order to comply with these new requirements.

In closing, CBA commends the effort to modernize and update CRA and looks forward to our continued work with our regulators on this important initiative. Once again, we appreciate the opportunity to provide these comments.

Sincerely,

A handwritten signature in black ink that reads "Mike Webb". The signature is written in a cursive, flowing style.

Mike Webb

Vice President, Assistant General Counsel