ILLINOIS BANKERS™

February 16, 2021

Via Electronic Delivery to regs.comments@federalreserve.gov

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

Re: **Docket No. R-1723**; **RIN 7100-AF94**
Advance Notice of Proposed Rulemaking
Community Reinvestment Act Regulations
85 Federal Register 66410 (October 19, 2020)

Ms. Misback:

The Illinois Bankers Association (IBA)[1] is writing on behalf of its members to comment on the Advance Notice of Proposed Rulemaking (ANPR) to modernize the Community Reinvestment Act (CRA) regulatory framework. We appreciate the Federal Reserve Board's efforts in the ANPR to identify and solicit input on several issues relating to the existing CRA regulations, and we are heartened by the prospect of obtaining much needed guidance and clarity for banks and examiners when interpreting and applying the CRA's requirements.

We strongly support the CRA's goals, and our members work every day to help meet the credit needs of the communities they support and rely on, particularly in low- and moderate-income areas. Our hope is that all three federal banking regulators — including the Federal Reserve Board — will craft clear and consistent standards that can better incentivize banks to support their communities by reducing supervisory ambiguities and avoiding burdensome and restrictive requirements.

Please note that we previously submitted a comment letter in response to the OCC's Advance Notice of Proposed Rulemaking on this issue in 2018 and a comment letter in response to the OCC and FDIC's Joint Notice of Proposed Rulemaking in 2020. The following discussion builds on and is consistent with our earlier comments.

Questions 71–72: Create certainty for all community groups and banks when making charitable grants and donations. We support the concept of creating a publicly-available list of qualifying activities that is illustrative but non-exhaustive, as well as a workable pre-approval process for both specific transactions and general categories of qualifying activities. The list should apply to all sizes and types of institutions — even those that may continue under the current evaluation framework with respect to their community development activities.

Currently, the definition of "community development" is narrow and complex, and examiners cannot provide firm answers to banks seeking guidance on which investments might earn CRA credit. Banks often are blindsided when substantial donations benefiting low- and moderate-income individuals receive no or little CRA credit for the dollars invested. Transparency and clarity as to qualifying activities will greatly

[1] The Illinois Bankers Association is a full-service trade association dedicated to creating a positive business climate for the entire banking industry and the communities we serve. Founded in 1891, the IBA brings together state and national banks and savings banks of all sizes in Illinois. Over 40% of IBA members are community banks with less than $150 million in assets, and over 75% of IBA members are community banks with less than $500 million in assets. Collectively, the IBA represents nearly 90% of the assets of the Illinois banking industry, which employs more than 105,000 men and women in over 5,000 offices across the state.

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encourage productive investments that are beneficial to our communities, community organizations, and banks alike.

Questions 11–13: Provide community and rural banks with the ability to opt out completely. Community banks meeting the definition of "small bank" should be provided the ability to continue investing in their communities under the current CRA evaluation regime, as an alternative to the costly prospect of implementing a new evaluation process.

Many smaller banks, and particularly those operating in rural areas, have unique challenges. Applying the same CRA expectations to these banks can be unrealistic and counterproductive. For example, a bank in a rural area that does not technically include a mapped low- and moderate-income geography can make the majority of its loans to low- and moderate-income individuals, small businesses and farms — without receiving any CRA credit for that lending.

Additionally, small and rural banks are subject to intense competition from a number of financial service providers that are not subject to CRA requirements, from credit unions and Farm Credit institutions to fintech companies with slick apps and nationwide marketing campaigns. Without the need to spend employee time and dollars on CRA compliance and supervision, these entities have a substantial advantage over banks and deploy large marketing budgets to gobble up investment opportunities and eat up banks' market share of low- and moderate-income customers in rural areas.

Questions 35–37: Modernize the thresholds. The existing threshold for consideration as a "small" bank is very low, and we would suggest replacing the current thresholds and considering performance standards based on business models and risk profiles rather than pure asset thresholds.

With respect to the proposed thresholds of $750 million or $1 billion in assets, we would note that the current threshold for treatment as a small or intermediate small bank is $1.322 billion (for 2021), and the OCC's final CRA rule sets a threshold for treatment as a small bank at $2.5 billion.

Additionally, the current $1 million threshold for qualification as a small business loan is ripe for modernization; if this amount had been adjusted for inflation since the CRA's enactment in 1977, it would currently stand at over $4 million. A similar adjustment should be made for the current threshold of $500,000 for small farm loans.

Questions 90–99: Remove burdensome data collection and reporting requirements. Several new requirements to collect and report new data are under consideration within each of the four subtests discussed in the ANPR. We strongly support eliminating and reducing as many data collection and reporting requirements as possible, while carefully considering the burden of requiring collection and reporting new types of data.

Any collection of new data or novel uses of existing data will require new or upgraded systems, training, and oversight, because many banks simply do not store data in the manner in which it must be reported. Transferring data from one system to another can be fraught with challenges; for example, before pulling data from a Call Report system, banks will have to ensure that their loan systems are pulling data from the correct Call Report and that no errors or software issues have corrupted the data while in transit. Much of the time and expense spent in such data collecting and paperwork instead should be deployed in our banks' communities, through lending and investments, by marketing to low- and moderate-income communities, and in promoting financial literacy and other worthy causes.

Rein in costly application processing delays. A significant contributor to the costs of CRA supervision is the potential for causing major delays to the processing of bank merger, consolidation, and other types of supervisory applications. The filing of just one nonsubstantive protest by one group can result in multiple months of delays in the processing of an application. In one case involving one of our members, such a delay resulted in losses of millions of dollars for an institution that had an "Outstanding" CRA rating.

While our members have entered into productive partnerships with many community organizations, we also have seen a small number of community groups leveraging the threat of such regulatory delays to demand certain investments from banks operating in their territories. We do not believe that the CRA's goals are met when banks are forced into making unwise loans or donations on such a basis, which ultimately serves only to move dollars away from more worthy organizations and causes.

At the very least, banks that have achieved a top rating of "Outstanding" should be granted some immunity from such unsavory tactics. Applications from "Outstanding" banks should be subject to community input, but they should not be delayed merely due to the filing of a single, unsubstantiated protest.

Thank you for your consideration of our comments, and please let us know if you have any questions.

Very truly yours,

Carolyn Settanni

Carolyn Settanni
Executive Vice President and
General Counsel