



February 16, 2021

Ms. Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave., NW
Washington, D.C., 20551

VIA EMAIL TO: regs.comments@federalreserve.gov

Re: Docket no. R1723, RIN 7100-AF94

Dear Ms. Misback,

The National Association of Industrial Bankers (NAIB) appreciates the opportunity to submit comments on the Advance Notice of Proposed Rulemaking relating to amendments to the regulations implementing the Community Reinvestment Act (CRA) published in the Federal Register on October 19, 2020.

NAIB is the national association for industrial banks (IBs). First chartered in 1910, industrial banks operate under several titles: industrial loan banks, industrial loan corporations, or thrift and loan companies. These banks engage in consumer and commercial lending on both a secured and unsecured basis. They do not offer demand checking accounts but accept time deposits, savings deposit money market accounts, and NOW accounts. Industrial banks provide a broad array of products and services to customers and small businesses nationwide, including in some of the most underserved segments of the U.S. economy. These same institutions are also commonly referred to as industrial loan companies (ILCs).

Although none of our member banks are members of the Federal Reserve, they are state-chartered institutions and subject to all regulations – including CRA. Our members believe it is essential for the implementing regulations to be similar for all the federal banking regulators. That is needed to avoid unequal standards that might unfairly impose additional burdens and requirements on one group of banks and facilitate the development of CRA programs in which multiple banks participate. To that end, we hope you find the following comments helpful.

At the outset, our members wish to express their support for the goals of CRA. They understand the importance of programs designed to meet the needs of low- to moderate-income people and communities and are committed to developing CRA programs that provide

meaningful benefits. Furthermore, our members have deep experience with CRA, and wish to share their expertise in this comment letter.

One of our members' most significant concerns is ensuring the implementing regulations provide the flexibility needed to adapt CRA programs to different bank business models. Most of our members are branchless banks providing specialized products and services to specific customer groups nationwide. This model did not exist when the CRA law was enacted in 1977. The law then was designed to fit with a business model that serves a limited geographic area with a full array of banking products and services delivered through retail branches. For traditional banks, compliance with CRA is often fully integrated into their core businesses. CRA programs cannot integrate into the core business for branchless banks. Instead, they should consist of a separate program with various products and services. For these banks, flexibility is crucial to make CRA programs workable and enable them to deliver the maximum benefits.

This dynamic presents some additional potential issues.

A significant concern is that CRA requirements should not impose burdens on branchless banks that unnecessarily impede that business model's success. It was not the intention of CRA to interfere with the development of new business models. It would be an abuse of rulemaking authority to amend the law if it would have that impact either intentionally or inadvertently – especially if other options are available.

The other concern is to ensure that CRA regulations do not impede innovation and efficiency in developing CRA programs and other financial services. Achieving maximum efficiency and innovation will result in the most significant number of benefits flowing from CRA programs and enable banks to act on a wide array of opportunities to serve LMI people and communities nationwide. But many options are limited because of outdated constraints on designating assessment areas. More simplicity and flexibility would help direct CRA programs to where they can perform the most good.

We are encouraged that the proposal keeps the wholesale and limited purpose designations, community development test, and the strategic plan option. These have been the centerpiece of most CRA programs developed by branchless banks. Preserving them is crucial to avoiding unnecessary restrictions impeding a branchless bank's ability to comply with the law.

Concerning assessment areas, our members' consensus is that the current methods work well for wholesale and limited purpose banks. Yet, there is a need to increase our secondary assessment areas. We fully agree with the discussion of assessment areas in the comments submitted by the comment letters from other organizations (i.e., Utah Bankers Association). For brevity, we will not repeat them here.

For strategic plan banks, rather than having an additional assessment area(s) determined by regulation, our members recommend allowing banks to negotiate secondary assessment area(s) with their regulators during strategic plan development. We recommend basing these assessment areas on the bank's business model and other factors, such as opportunities in regions where non-branch facilities and affiliates are located.

Additional comments on strategic plans emphasize the importance of retaining the option for banks with unique business models and maintaining flexibility in goal setting based on their business model, expertise, and community needs.

The proposal provides some options for streamlining the strategic plan approval process. Still, it does not offer the opportunity to receive any feedback before submission, which unnecessarily extends the approval process. If the bank has to submit a plan (with several months in between submissions), it could make a plan already outdated before it is approved. Conversations between the bank and the regulator are critical in determining the strategic plan goals based on the performance context and potentially the assessment areas.

Our members also support placing parameters around public input when developing a strategic plan to limit spurious comments and efforts by some groups to demand concessions unrelated to CRA to withdraw critical comments. We favor omitting the need to publish for public comment minor and non-substantive amendments to an existing plan.

Like other commentators, our members have serious concerns about additional data reporting and the impact of draining resources without providing benefits due to the potentially high cost of obtaining some types of data such as customer-specific data on all deposits and consumer loans. We encourage the regulators to find ways to use existing reports to gather information.

Regarding the Community Development Test, our members consider it necessary to use metrics for the Financing Subtest related to banks with similar business models, not comparisons to national and local benchmarks. A wholesale or limited-purpose bank should not be expected to meet thresholds/benchmarks similar to retail banks.

We agree with the proposal to evaluate community development loans and investments together and to consider both loans and investments that originated during the evaluation period as well as those originated in prior periods. Evaluating activities together would give banks more flexibility to provide the type of financing – loans or investments – most appropriate to support their communities' needs without concern about meeting different evaluation criteria. This would allow banks to receive CRA credit for extending and maintaining long-term financing activities, regardless of whether they are financed with a loan or an investment.

Finally, historically, regulators applying the Community Development Test have allowed statewide and regional activities credit for activities on a nationwide basis after the bank has adequately met the needs within its primary assessment area. This language should be included in new regulations. We also encourage consideration of allowing CRA credit for programs that benefit LMI people and communities anywhere in the nation, provided that does not trigger a responsibility to conduct nationwide needs assessments, which are beyond the capability of all but the largest banks.

On behalf of our members, we hope you find these comments helpful.

Thank you for the opportunity to respond.

Sincerely,

A handwritten signature in cursive script, appearing to read "Frank R. Pignanelli".

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