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

Re: Comments on Advance Notice of Proposed Rulemaking to Revise the Community Reinvestment Regulations of the Board of Governors of the Federal Reserve System, Docket No. R-1723; RIN 7100-AF94

Dear Ms. Misback,

On behalf of our client, First Republic Bank ("First Republic" or the "Bank"), a California state-chartered bank, the deposits of which are insured by the Federal Deposit Insurance Corporation ("FDIC"), we are writing to comment on the Advance Notice of Proposed Rulemaking ("ANPR") inviting public comment on an approach to modernize the regulations that implement the Community Reinvestment Act ("CRA") announced by the Board of Governors of the Federal Reserve System ("Federal Reserve") on September 21, 2020.[1]

I. Introduction

First Republic is a large regional bank headquartered in San Francisco, California. The Bank has a sizable bi-coastal retail banking presence and its lending activity comprises primarily single-family home mortgage lending and secondarily business lending. The Bank currently is subject to the Large Bank Examination Procedures under the existing CRA regulations. It has received a "Satisfactory" CRA rating since inception. First Republic has reviewed the ANPR and is supportive of the general direction of the proposed changes, specifically the overall goals of tailoring the CRA regulations and minimizing data collection and reporting burdens, clarifying and expanding eligible activities focused on low- to moderate-income ("LMI") communities, and tailoring performance evaluations to bank size, business

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[1] Board of Governors of the Federal Reserve System Advance Notice of Proposed Rulemaking; Request for Comment: Community Reinvestment Act Regulations, 85 Fed. Reg. 66410 (October 19, 2020). Capitalized terms not defined in this comment letter have the same meanings as in the ANPR.

model, and local conditions. First Republic applauds the Federal Reserve for taking a strong leadership position to advocate for these meaningful changes. The Bank believes that many of the proposed changes would ultimately reduce inefficiencies in the current CRA regulation and benefit the LMI communities that it seeks to serve.

II. Comments on Specific Proposed Changes

First Republic wishes to provide the following comments specific to some of the proposed changes in the ANPR that would apply to banks designated as "Large Banks" for CRA examination purposes:

A. Assessment Areas

i. Loan Production Offices and Deposit-Taking ATMs: First Republic supports the proposed facility-based and deposit-based approaches to assessment area ("AA") delineation set forth in the ANPR. With regard to loan production offices ("LPOs") and deposit-taking ATMs, the Bank's position is that financial institutions should not be required to delineate areas around LPOs and deposit-taking ATMs. Instead, the decision to delineate around these facilities should be made optional and left up to the bank. Banks have different business models and loan and deposit activities generated by LPOs and deposit-taking ATMs can vary widely from bank to bank. As such, it would be best not to implement a one-size-fits-all AA delineation requirement around these facilities.

ii. Deposit- or Lending-Based Assessment Areas: First Republic recommends that the proposed new deposit- or lending-based AAs be applied only to internet banks, as traditional large banks are already subject to a facility-based delineation requirement. As noted above in Paragraph i, the Bank also recommends that traditional retail banks be given the option to delineate areas around LPOs and deposit-taking ATMs if they choose to do so.

B. Retail Lending Subtests

iii. Retail Lending Subtest Benchmarks: First Republic supports the proposal of establishing a presumption of "Satisfactory" for institutions that satisfy certain benchmarks under the Retail Lending Subtests. However, the Bank also believes that the proposed threshold percentages – set at 65% of the Community Benchmark and 70% of the Market Benchmark – are too high. While the Federal Reserve has demonstrated a data-driven approach to setting these proposed percentages, it should be noted that LMI retail lending opportunities that exist in local communities are not equally accessible to all banks (even for large banks). This is especially true for banks with a limited branch network in high cost areas, who may face significant challenges in originating sufficient numbers of LMI loans to achieve the proposed threshold percentages. Importantly, if such banks are limited to only purchasing loans from originating lenders or affiliates (as discussed in Section B-ix "Purchased Loans"), these threshold percentages will still clearly be excessive. In First Republic's view, more market data needs to be collected and analyzed before finalizing these benchmarks.

iv. Combining Low-Income and Moderate-Income Categories: First Republic supports the ANPR approach of combining of low-income and moderate-income categories into one category for the purpose of calculating the retail lending distribution metrics. This reduces the overall complexity for banks seeking to source and pursue LMI lending opportunities. Importantly, this approach is consistent with how LMI activities are considered in community development ("CD") investments, CD loans and CD services.

v. Retail Product Line Threshold: First Republic supports using 15% of a bank's product-specific retail lending activity at the local AA level as the benchmark to determine if a retail product is considered a "major" product and should be subject to the Retail Lending Subtests.

vi. Retail Lending Dashboard: First Republic supports the use of a "dashboard" to allow banks to track performance thresholds, as this will increase clarity, consistency and transparency. The Bank recommends that the dashboard be updated at reasonable intervals (e.g., once a year) so that the thresholds do not turn into moving targets. In the Bank's view, this is important to achieve clarity and consistency throughout an examination cycle.

vii. Qualitative Adjustment to Performance Range: First Republic supports giving examiners discretion to adjust the recommended conclusion under the performance ranges proposed for each category ("Outstanding," "Satisfactory," "Needs to Improve," and "Substantial Noncompliance") without a predetermined list of performance context factors. The Federal Reserve can provide general guidance with regard to performance factors to consider, but the specifics should be left to the banks. Every bank is different in some respects and should be allowed to decide what performance context to present to the examiner.

viii. Small Business Loans: First Republic supports increasing the qualifying small business loan amount to $1.65 million, and also increasing the gross annual revenue threshold to $1.65 million, subject to periodic inflation adjustments. The Bank suggests that such adjustments be made at reasonable intervals (e.g. every five years) to minimize the data collection burden for banks.

First Republic does not anticipate that having a different loan amount threshold from Call Report Schedule RC-C would have a material impact from a process perspective. While banks use the small business loan ("SBL") definitions in the Call Report to determine whether a loan is reportable as an SBL, the Call Report and CRA reporting processes have different standards. For example, the Call Report captures the outstanding balance of SBLs with original amounts of $1.00 million or less, whereas CRA reports covered SBLs at the original commitment, renewal amount, or the amount of net increases.

ix. Purchased Loans: With regard to the treatment of purchased loans, First Republic opposes the proposal in the ANPR to limit CRA credit only to LMI loans directly purchased from an originating lender (or affiliate). In the Bank's view, while this approach is well intended, it does not take into account the market reality in high cost or remote areas.

First Republic supports purchased LMI loans receiving credit "on par" with LMI originations. It strongly disagrees with the notion that doing so would encourage banks to take the "easy" way out. Based on its own experience, it has concluded that a bank's CRA loan objectives often far exceed what it can originate on its own. Banks that purchase loans in the secondary market do so out of necessity and pay a significant CRA "premium" for the transaction. Furthermore, larger banks can purchase loans from

CDFIs and other community entities that may have limited financial resources, thereby permitting those entities to originate more loans in their local communities. The decision on how best to meet its CRA retail lending needs should be left to the financial institutions, and they should have leeway to make reasonable pragmatic choices in order to achieve their CRA objectives.

First Republic believes that, to the extent the Federal Reserve is concerned about loan churning, the proposal in the ANPR to exclude from the Retail Lending Screen LMI loans that were previously purchased by others would provide meaningful disincentives. This option is also less punitive than limiting LMI loan purchases only to those from originating lenders (or affiliates).

x. Income Restricted Mortgage Assistance Home Loans: Under the existing CRA Large Bank Examination Procedures, home loans funded through Income Restricted Mortgage Assistance ("IRMA") programs receive qualitative and quantitative consideration under the "Innovative or Flexible Lending Practices" section in the CRA Performance Evaluation. However, unless the property is located in an LMI tract, or the borrowers are LMI by income, these loans are not captured as "LMI loans" in the quantitative analysis of HMDA data.

First Republic strongly urges the Federal Reserve to include in the Borrower Distribution Metric and Geographic Distribution Metric (Retail Lending Subtests) IRMA loans to non-LMI borrowers for the following reasons:

IRMA programs such as down payment assistance, silent second loans and below-market-rate programs offered by states, municipalities, Community Development Financial Institutions ("CDFIs"), or other nonprofit and for-profit developers/lenders are critical to helping LMI and non-LMI workforce families to achieve first-time homeownership, especially in high-cost areas where these homebuyers must rely heavily on layered financing. These IRMA programs are implemented specifically to promote affordable first-time homeownership. They have strict and specific qualifying guidelines, including income and asset limits, resale/refinance restrictions, and household size requirements. Homeownership counseling is also required in order to qualify. In addition, financial institutions often have to apply and be approved in order to become participating lenders. The missions of IRMA programs align exceptionally well with the goals of the CRA.

Due to surging home prices in recent years, many IRMA programs in high cost areas have increased their income eligibility to 120% of the relevant Area Median Income ("AMI") and higher. For example, the City of San Francisco's Below Market Rate program has an income limit of up to 120% of AMI. In addition, San Francisco's Down Payment Assistance Loan Program is offered to qualified households with income up to 175% of AMI. The New York City Department of Housing Preservation and Development offers down payment assistance to households with incomes up to 120% of AMI. These guidelines reflect the local market reality that even families earning up to 120% of AMI are priced out of the housing market and need financial assistance to afford a home. First Republic believes that this reality needs to be recognized in the CRA modernization effort.

In addition, underwriting IRMA loans is time- and labor-intensive – first time homebuyers often require considerable assistance from the beginning to end of the loan process. Also, because these loans frequently have multiple layers of financial assistance, a high level of coordination between different funding agencies is often required. In First Republic's experience, banks that choose to participate in these programs have to put in place infrastructure and support resources specifically to handle these loans. Not counting them in the Retail Lending Subtests for home loans would create a disincentive for financial institutions to continue their participation in these programs, to the detriment of workforce first-time homebuyers, especially in high-cost areas.

C. Retail Service Subtest

xi. Minimum Number of Branches for Branch Distribution Analysis: First Republic supports the proposal that when a bank has a limited number of branches in an AA, the branch distribution analysis should be done qualitatively without the use of the community and market benchmarks proposed in the ANPR. The analysis is not meaningful when there is only a handful of branches in the AA, as it does not add value to the evaluation process.

xii. Deposit Products: First Republic opposes the proposal to require the largest banks to provide a strategic statement articulating their approach to offering retail banking products. Such a statement does not demonstrate the impact a bank's product offering has on LMI communities within an AA. Instead, examiners should look to a bank's product offerings and the results of its efforts to assess its performance. Since income information is not collected for deposit account holders, other proxies can be used to gauge whether a product specifically targets LMI individuals, such as product features including account opening requirements, minimum monthly balance requirements (if any), and financial education requirements (if any). For programs that specifically target LMI individuals, such as the EBT network, which facilitates out-of-network public welfare withdrawals free of charge, it should be self-evident that the services primarily benefit LMI individuals.

D. Community Development Financing

First Republic supports the Federal Reserve's proposal to combine community development lending ("CDL") and community development investment ("CDI") under one subtest. The Bank further supports the proposal to consider both new originations and existing CDLs on a bank's balance sheet in determining the total volume of community development financing ("CDF") activities. This approach effectively addresses the existing inconsistency in how CDIs and CDLs are treated during an examination.

In addition, First Republic supports using the ratio of dollars of CDF activities to deposits (i.e., the "Community Development Financing Metric") to measure a bank's level of CDF activities at the AA level. This approach is consistent with how retail lending activities are measured. The Bank notes that it is also consistent with the spirit of the CRA, which centers on the premise that if a bank takes deposits from a community, it should also lend in it.

Regarding the issue of whether a presumption approach should be used in assigning a CDF rating (assuming that a bank's CDF metrics meet certain thresholds), while such an approach would help to provide clarity and consistency in evaluating CDF activities, the Bank believes that it is also important to keep in mind the competitiveness of the CDF market, where a significant number of transactions are often dominated by just a few key players on both the equity and debt sides. In fact, the standard industry practice often favors having the same player(s) on both sides to achieve greater cost efficiency. It is the Bank's experience that this results in a significant barrier to entry for non-money center banks and new players in the CDF market. Therefore, in establishing the thresholds or benchmarks for CDF activities, it is very important to recognize that CDF activities that exist at the market level are not equally accessible to banks of all sizes. When the Federal Reserve develops final CDF metrics and thresholds, it should set them at reasonable levels achievable by smaller or new players in the CDF market.

E. Expanding Qualifying Community Development Activities

xiii. Community Development Services: First Republic supports the Federal Reserve's proposal to expand community development services ("CDS") to include all financial literacy and homeownership counseling activities, regardless of income level of participants. The Bank further urges the Federal Reserve to expand CDS eligibility to all activities that are targeted to, or primarily benefit, LMI individuals in an AA or statewide/regional/targeted high needs area, regardless of their connection to financial services. For example, volunteering to build homes for Habitat for Humanity families clearly meets a pressing community need (affordable homeownership) and, in the Bank's view should qualify as a CDS. The Bank believes that requiring qualifying activities to be financial-related often distorts a nonprofit's real priorities and results, as the organization pivots away from its core mission in order to secure financial support from banks seeking to provide CRA qualified services. For example, the most pressing need for a nonprofit that provides transitional housing to homeless individuals is not providing them financial education, but helping them stay off the street, fight sustenance abuse, and survive. Nonprofits should be able to guide and direct bank services to meet their most pressing needs, rather than imposing an artificial and sometimes irrelevant requirement in order to make the activity qualify for CRA recognition.

In addition, in the CRA charitable donation space, being financial services-related is not a requirement for a grant to qualify for CRA. For example, a grant to a homeless shelter within an AA qualifies as a CRA investment, but volunteering at the homeless shelter does not qualify as a CRA service (unless the volunteer activity is financial-services related). First Republic believes that this inconsistency should be eliminated.

xiv. Volunteer Activities: First Republic supports the Federal Reserve's proposal to use the ratio of a bank's qualified volunteering service hours to its total number of employees as a quantitative metric to measure volunteer activities. This approach effectively addresses the different levels of available human resources between financial institutions and allows for meaningful comparisons between banks, both at the local and institution levels.

In order to determine whether a CDS is targeted to LMI individuals, First Republic recommends using proxies such as LMI location of the activity, the primary mission of the nonprofit (if a nonprofit partner is involved), or the primary purpose of the program/activity. The Bank opposes using any single proxy across the board.

xv. Impact Score: First Republic supports the concept of assigning an impact score to qualified CD activities, including loans and investments. The Bank notes that, as a practical matter, in any given examination cycle a large bank can have hundreds or thousands of CDF activities. Having examiners review and assign an impact score at the individual loan or investment level can be a daunting and time-consuming task. More importantly, it can lead to a protracted examination process. The Bank recommends, as an alternative, assigning a default impact score of "1" to CD activities but allowing banks the discretion to assign a higher impact score of "2" or "3" to activities that they feel create significant impact on the LMI community. During an examination, examiners can review or sample those activities to determine whether the higher rates are warranted.

F. Deposits

The proposed metrics for the Retail Lending and CD Financing Subtests at the AA level are built on deposit data. The proposed ratings framework also uses deposit data to determine the weight an AA would carry in the overall bank rating. While using the FDIC's Summary of Deposits ("SOD") is the most direct approach to gather deposit data (without adding substantial burden on banks), First Republic believes that using branch location as a proxy for depositor locations has its drawbacks. Chief among them: the SOD may inflate the level of deposits within an AA and put banks with traditional branch network at a disadvantage, since almost all deposits will get mapped to a branch location. For example, for a branch located near state borders in a non-multi-state MSA, the deposits it draws across the state line (and therefore outside of its AA) would get counted toward that branch location and inflate the deposit total for the AA.

While CDI and CDL qualified activities in broader statewide or regional areas or designated areas are included in the CDF metric, retail lending activities outside of AA are not included in the Retail Lending Subtest Metrics. For this reason, First Republic recommends that the Community and Market Benchmarks for the Retail Lending Subtests should be lower than the proposed 65% and 70%, respectively. The Bank believes that, at a minimum, more data should be collected and analyzed before these benchmarks are set.

G. Community Development Definitions

xvi. Affordable Housing: First Republic supports including in the definition of Affordable Housing ("AH"): (x) subsidized affordable housing, (y) unsubsidized affordable housing, and (z) housing with explicit pledges or other mechanism (such as workforce housing) to retain "affordability" in the definition of AH. The Bank believes that this is especially important for high-housing-cost areas where affordable housing development and preservation involve cross-sector and innovative collaboration. The Bank is concerned that having a too-narrow definition for "affordable housing" can discourage these critical efforts and reduce affordable housing production (also see Section B-x "Income Restricted Mortgage Assistance Home Loans").

Naturally occurring affordable housing ("NOAH") often occurs in the unsubsidized housing space, such as NOAH units that result from local rental control ordinances. First Republic believes that reasonable criteria for unsubsidized housing to qualify for AH can include locations in an LMI tract or designated high need area, where a majority (over 50%) of the units are affordable to LMI tenants (i.e., actual rents are at or below 30% of AMI). If a loan meets these criteria, the entire loan should qualify as a CDL. For properties with fewer than 50% of the units being affordable to LMI tenants, pro-rata credit should be awarded. This is generally how unsubsidized rental housing are qualified for CDL under the existing guidelines. The Bank believes that it remains a sensible and effective approach.

In terms of determining rental affordability, First Republic supports using actual rents less than or equal to 30% of HUD AMI rather than the Fair Market Rent approach referenced in the ANPR. The Bank has used both approaches in connection with CRA examinations and has found the HUD approach to be more streamlined and efficient.

In addition, the Bank supports giving pro-rata AH credit to mixed-income developments with set-aside units for LMI residents. Mixed-income developments are part of the effort to increase affordable housing in high housing cost areas. The Bank believes that CRA eligibility (even pro-rata credit) can provide strong incentives for banks to support these efforts.

First Republic further recommends expanding the definition of AH to include workforce housing and other income-restricted programs implemented by local government or nonprofit/for profit developers, especially in high cost areas. While these special programs may have income criteria above 80% of AMI, these criteria reflect local housing market conditions and are an important part of the local housing strategies and policies to address affordable housing. As such, they should be deemed CRA qualified and included in the quantitative calculation of CDL or Retail Lending Subtests. (Also see Section B-x "Income Restricted Mortgage Assistance Home Loans").

xvii. Economic Development: With regard to the definition for what constitutes an activity that promotes economic development, First Republic favors keeping the Small Business Investment Company ("SBIC")/Small Business Development Center size standards rather than creating new ones. The Bank views this approach as being consistent with the fact that SBIC funds already are bona fide CRA qualified investments. As for documenting job creation/retention, it is the Bank's view that every new business and existing business (to the extent that they are not temporary endeavors) helps to create and retain jobs, and this qualitative attribute should suffice for loans to these enterprises to meet CRA eligibility requirement with regard to meeting the "purpose" test (provided that the loans also meet other criteria, such as location in an LMI tract/high need area within an AA or broader statewide/regional area). Furthermore, the Bank recommends that if job creation data are readily available, banks can present it to boost the "impact score" for a transaction, but those banks should not be required to collect these data, which are neither easy nor straightforward to collect, and add to the banks' data collection burden.

xviii. Revitalization and Stabilization: First Republic supports the proposal to expand the definition of Realization and Stabilization ("R&S") to include disaster preparedness and climate resilience, as outlined in the ANPR. The Bank has witnessed first-hand in California the long-term devastating impact caused by wildfires in the last few years. It strongly believes that disaster preparedness and climate resilience, not just disaster assistance and recovery, should be included in the definition of "revitalization and stabilization."

First Republic also believes that the existing R&S criteria are sufficient to ensure that qualified activities help to revitalize and stabilize LMI areas. Therefore, eligibility should not be subject to the presence of a government plan, as government actions often lag local community needs. In addition, the existing R&S criteria emphasize long-term benefits to LMI communities. In fact, it specifically excludes activities deemed to provide only short-term benefits to LMI neighborhoods. For example, the construction of high-end condominium projects in LMI census tracts does not qualify as CDL under "R&S" because the benefits associated with construction projects are short-term. The effect of this exclusion, in the Bank's view, is to ensure that the benefits associated with qualified activities will be long-term in nature.

H. Community Development Financial Institution/Minority Depository Institution Incentives

First Republic supports the proposal that Minority Depository Institution ("MDI")/CDFI/mission driven financial institutions ("FIs") outside of an AA or eligible state or region are eligible for CRA credit at the state/institution levels. The Bank further supports the proposal to give banks institution-level credit for MDI and CDFI related activities anywhere within the U.S.

With regard to the Federal Reserve's proposal to provide added incentive for banks to invest in MDI/CDFI/mission-driven FIs, First Republic believes that making this a factor for an "Outstanding" CRA rating may not be strong enough as an incentive, since only a very small percentage of banks receive an "Outstanding" rating. In addition, tying it with an "Outstanding" rating may inadvertently send the message that if a bank is not aiming for an "Outstanding" rating, it need not invest in MDI/CDFIs.

Furthermore, the Bank believes that an impact multiplier, such as awarding 2X the CDF credit for MDI and CDFI activities, will be much more powerful as an incentive to channel capital toward MDIs and CDFIs than making these investments a factor in obtaining an "Outstanding" rating. Therefore, the Bank urges the Federal Reserve to consider adopting a multiplier approach.

I. Illustrative List and Pre-Approval Process

First Republic appreciates and supports the Federal Reserve's approach to providing additional certainty about the CRA eligibility of various activities through an illustrative list that will be updated on a periodic basis. With regard to the pre-approval process proposed in the ANPR, the Bank believes that it may work better as a way to establish what requirements will be needed for an activity to be CRA eligible rather than a formal approval process, as the latter could evolve into protracted back-and-forth communications and hold up transactions from being completed on time.

Under the current CRA regulation, banks that have questions about the CRA eligibility of a transaction can reach out to CRA subject matter experts at their respective regulatory agencies to seek guidance and clarification. The same process can continue to be used here. If the Federal Reserve opts to proceed with a formal pre-approval process, First Republic thinks that it is important to emphasize that not all transactions need to go through the pre-approval process in order to qualify. This would help to prevent the pre-approval process from acquiring a life of its own and becoming a default process for new activities.

J. Eligible States and Territories and Eligible Regions

First Republic supports the proposal to allow banks to receive CRA credit for community development activities not only within defined AAs, but also within "eligible states and territories" and "eligible regions" to provide greater certainty and clarity regarding the consideration of activities outside of AAs. It further supports the proposal to add designated areas of need to the list of eligible geographies, and believes these practices would go a long way to alleviate CRA hot spots or deserts.

K. Ratings

xix. Maintaining Existing Ratings Categories: First Republic supports the Federal Reserve's proposal to maintain the existing ratings categories of "Outstanding", "Satisfactory", "Needs to Improve", and "Substantial Noncompliance". It also supports the proposed score assigned to each rating – from 0 to 3, with 3 being "Outstanding" – to facilitate the calculation of the AA, state and institutional score. In addition, it supports the "weighed average approach" to assigning weights to each AA based on their loan and deposit shares.

xx. Limited Scope vs Full Scope Assessment Areas: First Republic objects to the proposal to remove "full scope" and "limited scope" AAs. The Bank believes that it is important that the differentiation be maintained between larger and smaller AAs (in terms of resources availability, not physical size). A bank's retail presence and resources are not uniform across its footprint. As such, the Bank's view is that the Federal Reserve should avoid a one-size-fits-all AA approach to CRA evaluation.

First Republic also objects to placing a limit on how high a rating can be for a state or multistate MSA if a pattern of persistently weaker performance exists in multiple assessment areas. It is the Bank's opinion that, while this proposal is well intended, the business reality is such that a bank's retail presence is not uniform across a state or multistate MSA. Therefore, the AAs do not have the same level of resources to pursue CRA opportunities. In addition, not all banks are on an equal footing to pursue CRA opportunities in the local market (barriers to entry to CDF market are significant, as discussed elsewhere in this comment letter). In states where a bank has multiple AAs, performance variation will exist.

First Republic's position is that as long as a bank's overall performance in a state is solid, examiners should be given the discretion to make rating adjustments as necessary. If a lower rating is justified after reviewing relevant information from all AAs in the state, the examiner should be trusted to make that call, and banks should have an opportunity to respond to the initial determination. Implementing a mandatory ratings ceiling would remove fairness from the process. As the Federal Reserve strives to provide clarity and objectivity in the performance evaluation process, it also is very important not to over-standardize the process or oversimplify market reality and therefore unduly constrain bank performance.

For similar reasons, First Republic also objects to the automatic downgrade of a "Needs to Improve" conclusion to "Substantial Noncompliance" if there is no appreciable improvement at the next examination. CRA ratings are public information, and a "Needs to Improve" rating already is a very powerful incentive for banks to try harder to improve on their performance. In addition, there may be other factors that contributed to this lack of improvement, such as strong market competition, limited availability or lack of access to CRA opportunities. Accordingly, it is the Bank's position that the Federal Reserve should not pre-judge and pre-determine what a bank's rating should be without considering all relevant factors.

xxi. Adjusted Score Approach for Community Development Activities: First Republic supports the use of an "adjusted scores approach" to incorporate out-of-assessment area CD activities into state and institution ratings. This provides clarity on how such activities will be treated toward the rating process and helps to remediate CRA hotspots and deserts and serve as an incentive for banks to support out of AA CD activities.

III. Conclusion

The comments of First Republic presented in this comment letter reflect the Bank's thoughts and experience, as well the experience of the entire industry over the years since the last comprehensive revisions of the federal banking agencies' CRA regulations in 1995. The Bank wishes to thank the Federal Reserve for taking its comments into account in developing revised rules and looks forward to an objective, efficient and productive new CRA regulation

Please address any questions with respect to these comments to the undersigned at the address above, or to Howard Hyde of this firm at Howard.Hyde@arnoldporter.com or 202-942-5353.

Sincerely,

David F. Freeman, Jr.

cc: Catherine M.J. Gates
(Board of Governors of the Federal Reserve System)