Proposal: 1723 (AF94) Reg BB - Community Reinvestment Act

Description:

Comment ID: 138028

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Subject: R-1723 Community Reinvestment Act

Comments:

Date: Feb 16, 2021

Proposal: Regulation BB: Community Reinvestment Act [R-1723]
Document ID: R-1723
Revision: 1
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Your comment: Thank you for the opportunity to comment on the ANPR for CRA Modernization. I am the Vice President of Fair Lending and CRA Officer for BankFirst Financial Services, a $1.7 billion commercial CDFI bank located in rural Mississippi. Q.1 The objectives set forth by the Federal Reserve are reasonable and provide the basis for an updated Community Reinvestment Act. Q.2 The statement regarding a systematic inequality of credit available for minority individuals and communities is an accurate statement. Based on the history of CRA and redlining, a continued focus on only low-to-moderate income population does not begin to do enough. As both a Fair Lending Officer and CRA Officer, I have had to train my staff on the differences in CRA and fair lending, because that's how the regulations focus the issues. CRA has been income based and fair lending has been ethnicity and race based. There are other discriminatory factors that gets examined in fair lending; however, it becomes difficult to push the two areas of focus apart when the regulatory guidance of redlining is used in both areas. This brings to light the importance of how CRA and fair lending overlap and work in tangent. A point needs to be made that just because a community is minority, it does not mean that the community is also low-to-moderate income; and vice versa, a community that is low-to-moderate is not always minority. Our bank has this particular example in some of our markets. In one of our markets, the area is LMI, yet there is an extremely low percentage of minority population, with some census tracts having zero (0) percent minorities. We have another market where the majority of the population is minority, yet the income is considered middle to upper income. I agree with the systematic inequities to credit that extenuated from the 1930s and continued through the civil rights era of the 1960s; and continues today. It is important to include several different demographics in the Community Reinvestment Act. CRA modernization should include minority population, low income population, moderate income population, and distressed or underserved middle income population and communities. All of these communities and populations are disadvantaged to credit access across America. Q.3-7 Modernizing assessment areas should be considered since more internet and mobile banking has become mainstream. While I am of a generation that understands the advantage of a physical branch presence in the community and the convenience of electronic banking, generations younger than me would

rather conduct all of their banking electronically. Not to say that physical presence is not important, because they are still important and continue to form the foundation around which a community is connected. Therefore, assessment areas should still be facilities-based. There are pros and cons to including Loan Production Offices and deposit-taking ATMs as part of those facilities. Since CRA focuses on credit access, I believe that Loan Production Offices should be included in the facilities definition for assessment area delineation. I am not as familiar with deposit-taking ATMs outside of current assessment areas, so I cannot comment on that "facility." The con to including LPOs are that these facilities have no deposit base to correspond with their loan production, which means that deposits are having to be taken from one community and then lent to another one. Deposit or lending based AAs seem to be problematic in the sense that these can change with the payoff of a large loan or the redemption of a large depositor. With that thought, having a threshold set that would be fairly high, possibly 45% of deposits or loans outside of facility-based AAs, should be considered so that the lose of a large loan or large depositor doesn't trigger an AA adjustment. Q. 11-13 The current framework of CRA allows for Small Bank, Intermedia Small Bank, and Large Bank, where the threshold changes every year. Assets should still serve as the basis for the threshold determination. The CRA threshold should try to correspond with other regulation thresholds. FDICIA begins at $1 billion and requires additional scaling up of banks to "large bank" status; therefore, that should also be the threshold for CRA. Small banks should be subject to the Retail Lending Subtest when they have assets less than $1 billion and should not have the option to revert to the previous CRA evaluation tests. The reason is that all banks should be able to compare "apples to apples" and the only way to do that is when all banks use the same metrics-based subtests. Small banks should have the option to have the Retail Services Subtest considered as a supplement to their evaluation of the Retail Lending Subtest. Another option for asset size could be $3 billion, which is another threshold for additional banking evaluations. At $3 billion, the capacity to record and report on community development financing and services is more available. The thresholds should not adjust annually with national inflation since other regulations that use an asset threshold do not adjust annually. In order to achieve the objective of transparency, it would be better to only include the qualitative review of the Retail Services Subtest and the Community Development Services Subtest as a supplement to improve the rating during the Lending and Financing Subtests. The Retail Lending and Community Development Financing Subtests are metrics based and do not require examiner discretion and judgment. Examiner discretion and judgment has always been the struggle banks have had when determining if something is CRA qualified or not. Sometimes a loan, investment, or service would qualify and other times it wouldn't, depending on the judgement of the examiner. From a comparative standpoint, banks could get peer benchmarks when Small Banks are evaluated under Retail Lending Subtest, wholesale and limited purpose banks are evaluated under Community Development Financing Subtest, and Large Banks are evaluated under both Retail Lending and Community Development Financing Subtests. Using the Services Subtests will give banks the opportunity to move from a Low Satisfactory to Outstanding rating because of the additional effort in meeting the community development needs of the communities they serve. Q.14 Most banks work hard to serve the credit needs of the communities they serve; therefore, it is good to begin with a presumption of "Satisfactory." The benchmark of 30% appears to be a good level. Using all loans average dollar amount as the numerator and all deposits as the denominator is an appropriate metric for screening. Once the screen is met, then the focus on actual lending can be limited to the HMDA originations and purchases and small business and small farm loans in an assessment area as the basis for CRA reporting. Consumer loans should not be used in CRA. To combat redlining, all HMDA reportable originations and purchase are important. Fair lending uses all HMDA reportable applications to prove if redlining has occurred because it looks at how many applications have come from minority communities, as well as the number of originations, compared to the benchmark of other HMDA reporters. Consumer loans should reside in the fair lending area instead of CRA. To meet the credit needs of the community, home mortgage, home equity loans and lines of credit, small business, and small farm lending should be used. If a home mortgage is not securitized by the dwelling, then it should be considered a consumer loan and not a home mortgage loan for CRA. The HMDA originations/purchases, small business, and small farms would then be used for the geographic and borrower distribution. The distribution metric of 25% is reasonable. Combining all of the years as the metric should be used as an overall, but should also be considered for each year since, as mentioned in the ANPR, times of refinancing increases could cause outliers. Again, low income and moderate income should not be the only income category to consider in the geographic distribution.

Distressed and/or underserved middle income geographies should be included. Rural Mississippi has a larger number of distressed and/or underserved middle income geographies, which are as disadvantaged as other low- and moderate-income geographies. The list of benchmarks used are reasonable. To continue with the focus on redlining, a benchmark to be considered should be the percentage of borrowers in majority-minority census tracts. The Federal Reserve should consider providing the Dun & Bradstreet data to be made available to all banks, or provide the resource link for this data, since it is not exactly public information. A dashboard is an excellent tool to be offered by the Federal Reserve and should be developed more. Q.15 Again adjustments to small banks would not be helpful to make comparing all banks to one another; therefore, the metrics should be the same for all banks no matter the asset size. Retail Services Subtest. Q.24. Branch banks should be evaluated based on the vicinity of the facility to LMI, DU Middle tracts, and minority tracts. Consideration of competition (other bank branch facilities) should be included in the evaluation. Just because a branch may not be located directly in an LMI tract due to unavailability of location, does not mean that the disadvantaged populations are not being served. Looking at a 1-, 3-, or 5-mile radius of the location can shed light on the market served. Q.25. Banking deserts should be defined as areas where the majority of financial institutions are predatory lenders (pay day loans, title loans) and check cashers, and the banks or credit unions do not have lenders available to meet the credit needs. This definition could apply to both rural and urban locations. Q.26-27. If data is readily available, it would be good to look at the number of mobile banking users, internet banking users, remote deposit users, and other alternative service users compared to the number of LMI, DU Middle, and minority consumers in the area. Community Development Financing. Q.42. Community development financing should include community development loans and investments. Community development donations should be combined with services to be part of the Community Development Services Subtest. Community development financing should include LIHTC construction loans, long term financing, and other parts of LIHTC investing. NMTC, LIHTC, MBS, municipal bonds, SBICs, SBA lending, FSA/USDA lending, and other government secured lending should all be included as part of Community Development Financing Subtest. Q.43. The ratio used for all financing and lending ratios should be a Loan to Deposit ratio since this metric is easier to calculate and is consistent across most banks. Q.47. Impact scores are an interesting concept; however, they would need to be developed more. Consider talking with the CDFI Fund and the Community Development Bankers Association for additional information on impacts. Q.48-51. Metrics for Community Development Services can be created; however, a benchmark could not necessarily be established until a year's worth of data is collected. Impact scores can be established. Note the answer in Question 47. Community volunteerism is vital to all communities and should be considered as part of the community development services evaluation. For example, Habitat for Humanity relies upon volunteers to build the houses and helps to offset the cost of the affordable housing. When a bank allows its employees to volunteer for non-profits, even if it is not related to the provision of financial services, that volunteer time and effort helps the non-profit meet their goals and should be considered Community Development. Those volunteer hours can be monetized using the bank's average payroll divided by the FTE; or follow the OCC example and establish a Banking Industry Median Hourly Compensation annually, currently $39.03. Financial Literacy activities should not be limited to LMI communities and individuals. In today's educational system, financial literacy is not taught in school and every student should be taught financial education. Therefore, any form of financial literacy training should qualify for community development services no matter the income level. Banks have the expertise to teach financial literacy and should be able to count any effort as community development. Q.52-55. Both subsidized and unsubsidized affordable housing should be considered community development affordable housing. Explicit pledges or other mechanisms would create difficulties for borrowers. Using the Fair Market Rents as published by HUD should be the metric used to determine rent affordability. In college towns, rent is not calculated by apartment, but rather unit, which is usually a bedroom. Therefore, when affordability is looked at, it should be compared to the Studio/1-Bedroom rent on the FMR. Pro Rata consideration for a loan should be considered based on the percentage of the affordable housing that is affordable, especially when it is mixed-income housing. Q.56. Community services should include low-to-moderate income individuals and distressed or underserved middle income geographies. Therefore, the targeted individuals should include incomes less than 120% of the median family income. It would be helpful to have 66% of the overall community services aspect focus on LMI individuals and the other 33% be allowed for middle income individuals. There is such an income gap for the middle-income populations where they don't have the advantages of upper income and the accommodations made for the LMI. Community services for CD qualified activities should include Low, Moderate, and Middle-Income individuals. Q.57-59. Economic Development should continue to include job creation, retention, and improvement. Again, middle income should be included in job creation, retention, and improvement. Mississippi has a high level of poverty due to job losses and LMI and middle-income individuals are affected by these job losses. Q.60 -63. Revitalization and stabilization are essential for rural, distressed, and underserved census tract, especially in Mississippi. It is vital that the CRA evaluation incorporate infrastructure and community needs including hospitals, roads, bridges, and other community-based needs that help stabilize and revitalize a community. These infrastructure and community needs should be considered community needs for persistent poverty counties, LMI and distressed/underserved census tracts. Q.67. As a CDFI bank, we should receive automatic credit for many of the lending, investment, services, volunteer hours, and donations we provide to our markets. As a CDFI, we don't usually partner with other CDFIs, so we would not be able to qualify for partnering with other CDFIs and our activities should automatically qualify. Ratings. Q.78-81. I believe that dividing the ratings into numeric ratings similar to CAMELS or Compliance Ratings from 1 to 5 would be consistent with other evaluations. Using this method, the ratings would be: 1=Outstanding 2=High Satisfactory 3=Low Satisfactory 4=Needs to Improve 5=Substantially Non-compliance All banks should use the same rating system. Limited-scope examinations should be replaced with full-scope for all assessment areas because the metric-based evaluation makes it easier to cover all tests. If a rating for Needs to Improve did not improve from one period to the next, then Substantially Non-compliance would be the presumption. Modernizing CRA should rely upon as much readily available data, as opposed to additional data collection. It will be extremely helpful for the Federal Reserve to create and provide standardized templates to assist banks in complying with CRA.