



February 16, 2021

**Submitted Electronically**

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

**Re: Community Reinvestment Act, RIN 7100-AF94**

Dear Ms. Misback,

The Wisconsin Bankers Association (WBA) is the largest financial trade association in Wisconsin, representing approximately 220 state and nationally chartered banks, savings and loan associations, and savings banks. WBA appreciates the opportunity to comment on the Board of Governors of the Federal Reserve System's (FRB) advance notice of proposed rulemaking (proposal) regarding modernizing its Community Reinvestment act (CRA) regulatory and supervisory framework.

FRB has proposed different approaches to modernizing the regulatory and supervisory framework for its CRA regulations in order to more effectively meet the needs of low-to-moderate-income (LMI) communities and address inequities in credit access. The proposal seeks comment on all topics, but also requests reference to specific question numbers with submitted comments. WBA presents the responses to selected questions, by reference, as well as general comments below.

**Introduction**

WBA appreciates FRB's objectives of revising the CRA framework, including more effectively meeting the needs of LMI communities, increasing the clarity, consistency, and transparency of supervisory expectations, tailoring CRA supervision to reflect differences in bank sizes, dynamics, and markets, and updating standards in light of changes to banking, including technological changes. Wisconsin possesses a richly diverse banking atmosphere, with strong representation in rural and agriculture-focused areas as well as larger, more complex communities. These institutions have a strong ability to adapt to suit the needs of their communities, and their desire and willingness to do so is well known to WBA. Frequently, this effort goes above and beyond. For example, as the COVID-19 pandemic persists, Wisconsin banks continue to aid and serve their communities in every way possible. For example, Wisconsin banks have been leaders in offering loans to affected small business customers through the paycheck protection program.

As such, Wisconsin banks support the vital role CRA plays in LMI communities, and have reported meaningful growth in loan activity and investments in low- and moderate-income communities since the law's enactment. CRA's objectives align with the goals each bank has to better serve their communities and grow their core business. As such, any efforts to revise the

CRA regulations must not only focus on local needs but bank input as well, and WBA appreciates FRB's request for comment and feedback on different approaches.

To that extent, it is important that banks remain able, with the appropriate tools, to serve their local communities, and retain flexibility to work with their customers in ways appropriate to their institution and the local economy. CRA reform presents an opportunity to not only maintain the guiding objectives of the CRA itself, but highlight the efforts of banks to continue to positively impact their communities. While Wisconsin banks remain committed to CRA and stand by its purpose, many have expressed significant concern over the undue costs and administrative burdens the proposed rule presents.

## **Proposal Questions**

### *Question 24: Branch Distribution*

The proposal includes a method for analyzing the distribution of bank branches across census tracts of different income levels, along with benchmarks for comparison. FRB asks: how should examiners evaluate a bank's branch distribution? The proposal aims to use local data in determining whether branches are accessible in LMI communities through a community benchmark including percentages of census tracts, households, total businesses, as well as a market benchmark which includes a percentage of all bank branches. WBA offers the following recommendations to improve the branch distribution analysis.

WBA recommends a more flexible consideration of branch service delivery by income level. The proposed rule is too rigid in the consideration of branch service delivery to LMI communities when it is restricted to the census tract income level of the branch location without regard to the contiguous census tract areas which it serves. Branches are often located on major commercial thoroughfares which may also serve as boundaries between census tracts. As a result, the side of the street on which the branch is located becomes critical to the branch distribution benchmark. This is despite the reality that the branch's service delivery footprint would be the same regardless of which side of the street it is located. As such, WBA recommends that the income level benchmarks use a categorization that considers a reasonable radius surrounding the branch location (for example, of one mile) to identify services provided to immediately surrounding census tracts.

### *Question 33: Major Product Line Approach*

The proposal suggests an approach to loan evaluation based on major product line designations. Overall, WBA supports the establishment of thresholds to designate a major product line. A WBA member has indicated that one of the long-time challenges for community banks is the traditional inclusion of business credit card lending in the CRA evaluation for small business. The inclusion of credit card lending mixed-in with direct small business lending has had an unintended negative consequence in the past for community banks in their CRA small business lending evaluations.

Most community banks lack the sophistication to provide direct issue credit cards. One member provided an example that they, like many community banks, issue co-branded credit cards through an out-sourced partner. They greatly value this relationship, which provides expertise in card management, underwriting, fraud monitoring, reporting, and marketing. Such vendors provide similar services to over 1,400 other financial institutions. However, under existing CRA rules, the vendor exclusively receives the small business lending credit. The proposed

evaluation by product line will give direct business credit card issuers the opportunity to receive CRA credit for their activity, while not penalizing community banks for a safe and sound business practice.

#### *Question 37: Small Business and Small Farm Loans*

For qualification as a small business loan or small farm loan, FRB is considering updating the thresholds for both loan size and gross annual revenue. WBA generally supports revising the definition of “small loan to a business” to be based on the call report and gross annual revenues. WBA encourages raising the small business loan size and revenue thresholds to adjust for inflation. Members have indicated that current CRA rules do not accurately reflect the extent to which banks are financing community and economic development through small business lending. As such, adjustments to the loan thresholds will more accurately reflect the intent of the original rule for evaluation of small business lending. These thresholds should be updated in the final rule and indexed to inflation going forward.

More specifically, WBA recommends regular adjustments of the origination cap and the gross annual revenue limits for inflation, but not so frequently as to become burdensome due to the necessary, corresponding system adjustments. A period of every five years would be sufficient.

#### *Question 95: Community Development Financing Data Points*

The proposal includes new methods for collecting community development (CD) financing data, and suggests certain information that could be gathered, and subsets of data. FRB asks whether the CD financing data points are appropriate, and whether others should be considered? WBA strongly approves of the CD financing metric, and is particularly supportive of combining CD originations and balance sheet items for lending and investments. This gives a more accurate representation of on-going CD efforts. Members have reported that this will greatly enhance their ability to track, plan and create internal goals. WBA also supports the combining of CD loans and investments into one metric, which will provide banks with greater flexibility to respond to the distinct needs of individual assessment areas.

### **General Comments**

While the following comments relate to significant aspects of the proposal, they do not directly answer specific questions asked by FRB. However, they do relate critically to FRB's request for comment on all aspects of the proposal. Thus, for sake of organization, they are included below.

#### *Coordination with OCC and FDIC*

WBA urges all three banking agencies—the OCC, FDIC, and Federal Reserve—to develop a final CRA rule that is issued on an interagency basis. It is important that the agencies create a consistent examination across all financial institutions. It is important that a uniform standard is created, as different treatments will result in confusion in the industry and result in a disservice to CRA objectives. A goal of CRA modernization and reform should be certainty for the industry and regulators alike in order to deliver the best support to LMI communities.

#### *Burden Reduction*

WBA appreciates FRB's goal of revising the CRA framework to be more objective, transparent, consistent, and easy to understand, but wishes to stress the importance that revisions will

create burdens for financial institutions, and hopes that FRB will remain mindful and take efforts to reduce burdens where possible when contemplating its final rule. Some institutions have even expressed concerns that the difficulty presented in shifting to a new rule will potentially result in lower ratings that do not accurately reflect a bank's activity and ultimately will not improve consumer access to credit.

### *Retail Lending Subtest*

The proposal considers a number of measures to determine qualifying retail lending activities. For example, FRB proposes the number, dollar value, or a hybrid approach, including different characteristics, purposes, and sizes by evaluating loan categories separately. As a starting point, WBA strongly supports efforts to increase transparency in the standards applied by examiners. Based upon member feedback, WBA more specifically recommends that all measure of lending activity by product line be limited to the number of loans alone. For example, WBA members have expressed concerns against consideration for dollar value size of individual loans as it is not relevant to the original purposes of community reinvestment.

### *Defining Small and Large Banks for CRA Purposes*

The proposal would establish small bank and large bank categories of retail banks based on institution asset size, and would eliminate the current intermediate small bank category. WBA's primary concern with elimination of the intermediate category is the significance in the jump from small to large. For example, Intermediate Small Banks are not required to collect and report CRA loan data for small business, small farm, and community development loans, yet under the proposed rule, many intermediate banks would be immediately subject to the large bank category. Similarly, small banks currently subject to the small bank category that now approach the intermediate category would suddenly find themselves subject to the same data collection, maintenance, and reporting requirements as the largest banks in the country. For that reason, WBA recommends maintaining an intermediate category in order to build up to the more robust large category, instead of a sudden jump from one to the next.

### *Tax Credits*

WBA recommends including in the type of eligible CRA activities an appropriate valuation of Low Income Housing Tax Credit (LIHTC) and New Markets Tax Credit (NMTC) activities. Use of these programs should be encouraged as they are important methods to foster the development and expansion of affordable housing. As such, banks that invest in these projects directly or through syndicates should receive credit for their activities. For some banks, the only way they participate in such activities is through a third party that acts as a syndicate.

### *Broad Applicability Benefits to LMI*

As discussed above, Wisconsin banks are committed to serving their communities and the overall objectives of CRA. However, this mission is not shared by their large credit union counterparts. Instead, some of the larger credit unions utilize their tax advantage to serve predominantly higher income communities, neglecting LMI customers. WBA believes that in the broader context of CRA modernization, credit unions \$1 billion in size and larger as well as other lenders such as Fintech companies must be included.

## **Conclusion**

WBA supports the FRB's efforts to modernize the CRA rules and reports success in achieving CRA goals amongst Wisconsin banks. WBA hopes that the above answers to selected questions and general comments will assist in the rulemaking process, while again stressing the importance that FRB remain mindful of the burdens faced by institutions in shifting to a new rule. WBA also emphasizes the need for the banking agencies to work together to issue a united rule.

WBA appreciates the opportunity to comment on FRB's proposed rulemaking.

Sincerely,

A handwritten signature in cursive script that reads "Rose Oswald Poels".

Rose Oswald Poels  
President/CEO