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February 16, 2021

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; Docket No. R-1723, RIN 7100-AF94**

To Whom It May Concern:

First Commonwealth Bank is pleased to submit these comments to the Board of Governors of the Federal Reserve System (Federal Reserve) in response to the Advance Notice of Proposed Rulemaking on the Community Reinvestment Act (ANPR), "Community Reinvestment Act Regulations."

First Commonwealth, a regional financial institution headquartered in Indiana, Pennsylvania, supports the Community Reinvestment Act (CRA) and believes we have an affirmative obligation to help meet the credit needs of our communities, including low- and moderate-income (LMI) areas, consistent with safe and sound banking practices. Through CRA, First Commonwealth invests millions of dollars in the communities we serve, demonstrably benefitting them. Recognizing it has been decades since CRA was meaningfully reformed, and much has changed for banks and the communities we serve in that time, First Commonwealth is in strong support of the Federal Reserve's efforts to advance an inclusive, thoughtful approach to modernizing CRA. Banking has undergone a radical transformation to keep pace with consumer demands, and now banks need a CRA framework which responds to these changes.

Part of our banks commitment to communities includes serving them in their most dire times of need. The unprecedented outbreak of COVID-19 has already greatly affected the communities we serve and will continue to impact communities for years to come. As banks and the Federal Reserve work to respond to consumer needs during this crisis, we applaud the Federal Reserve for taking the time necessary to fully consider the impacts of this crisis, particularly to LMI families and communities, while moving forward with the rulemaking process. We hope that the Federal Reserve will continue to work collectively with banks like First Commonwealth throughout the rule making process to support a final rule which acknowledges the unique challenges COVID-19 has created for banks and the communities we serve.

First Commonwealth also recognizes the challenges currently facing our nation regarding racial equity and equality and realizes the vital part CRA plays in access to financial services for minority individuals and communities. We urge the Federal Reserve to ensure modernization efforts adhere to the statutory purposes of CRA by upholding the affirmative obligation to meet the credit needs of LMI individuals and communities.

First Commonwealth believes implementing changes to CRA is a worthwhile yet monumental effort for all interested stakeholders. We applaud the Federal Reserve for striving to modernize CRA and for encouraging a regulatory framework that facilitates greater consistency and transparency in CRA performance. The current regime is often applied with subjectivity and inconsistency between examinations and examination teams. We value these efforts to address these issues to create a more efficient and objective process for all involved stakeholders.
We would urge the Federal Reserve to continue to consider the nuanced and complicated nature of CRA and its impacts on the banking industry by implementing changes which encourage flexibility for regulated institutions to best serve our communities.

**The Federal Banking Agencies Should Continue to Work Together on CRA**

First Commonwealth applauds the Federal Reserve for their efforts in reforming a decades-old CRA regime. CRA is demonstrably vital to communities across the country, yet has not been properly updated in decades, leaving a framework which often fails to consider the realities of banking today. It is clear throughout the ANPR the Federal Reserve dedicated itself to reading and responding to stakeholder comments and joint-regulatory efforts present through the Office of the Comptroller of the Currency (OCC) & Federal Deposit Insurance Corporation's (FDIC) Notice of Proposed Rulemaking Process and beyond.[1] We appreciate efforts by the Federal Reserve to reflect and build on the important issues raised through previous modernization efforts.

First Commonwealth firmly believes the most comprehensive and thorough CRA framework is one facilitated by all prudential regulatory banking agencies. The Federal Reserve, OCC & FDIC have worked together on CRA regulation since the initial rulemaking process in 1978. Creating a fragmented approach now, when modernization will be so impactful on the communities we serve, will greatly harm CRA policy and LMI communities for the foreseeable future.

There are many reasons for maintaining consistent CRA enforcement standards among the bank regulatory agencies. CRA places the same responsibility on each prudential regulator "to use its authority when examining financial institutions, to encourage [banks] to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation

[1] Community Reinvestment Act Regulations, 85 Fed. Reg. 1,204 (Jan. 9, 2020) (hereinafter, "NPR").

of such institutions."[2] Inconsistent regulatory standards would undermine this uniform responsibility and would negatively impact CRA performance and the communities we serve.

While CRA is unique in that each prudential regulator may issue their own set of CRA rules, to maintain a level CRA playing field and facilitate accurate comparisons in bank CRA performance, the uninterrupted history of the OCC, FDIC, and Federal Reserve acting in tandem to issue uniform rules, interpretations, and guidelines must continue. First Commonwealth urges the Federal Reserve to continue to work with its joint-regulatory partners to create a consistent CRA framework to best serve communities across the country.

In turn, First Commonwealth will express its support of a unified approach to CRA with our regulator- the FDIC.

**<u>Flexibility is Necessary in Modernizing Assessment Areas</u>**

Like the Federal Reserve, First Commonwealth recognizes the massive challenge the modernization of banking presents for properly delineating assessment areas. Modernizing the CRA framework to reflect the changing nature of banking while also encouraging effective CRA activity is a massive trial for stakeholders and regulators alike. Given the various challenges a comprehensive solution may endure; it is vital the Federal Reserve retain flexible options for compliance in any reforms to how banks delineate assessment areas.

**The Federal Reserve Should Promote Flexibility in Assessing Activity Outside a Traditional Facility-Based Assessment Area**

First Commonwealth agrees with the Federal Reserve that bank branches retain importance in a modernized CRA framework. Branches are often huge sources of deposits for many institutions, and ensuring they serve as drivers of CRA activity helps reinforce the statutory purpose of CRA for banks to reinvest into the communities we serve. First Commonwealth supports a modernized framework which retains facility-based assessments as the foundation for most evaluations.

For First Commonwealth, a deposit based assessment area appears to be the logical evolution for assessment areas for banks like ours- large, retail based financial institutions. While the majority of our deposits todays are facilitated by our branch distribution, the change in how our customers approach their banking behaviors cannot be overstated. As our customers continue to demand access to best in class online banking capabilities, our need to adapt product delivery models and community development strategies will grow. Accordingly, as we adapt our business models, so shall our assessment areas.

When evaluating a framework which considers how and where banks collect deposits outside of their facilities, the Federal Reserve should continue to consider flexible approaches to activity which

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[2] 12 U.S.C. § 2901(b).

will not discourage different bank models in the future. A modernized framework should be cognizant of this shift in banking and fully consider the impacts of different frameworks on all bank models.

**Lending Based Assessment Areas do not Serve the Goals of CRA**

First Commonwealth concurs with much of the Federal Reserve's analysis on lending-based assessment areas. While there may be more data to quickly facilitate a lending-based assessment, a lending-based framework will not provide the CRA activity communities need, and not properly reflect the activity of banks across the country. For the majority of institutions, most retail lending is done within a bank's facility-based assessment area. Further, the lending done is often not concentrated within a particular geography which would lend itself well to a new assessment area framework. Finally, a lending-based framework may not meet CRA's statutory purpose by not properly redistributing deposits to the LMI communities banks aim to serve. First Commonwealth does not believe a lending-based framework will properly evaluate and encourage activity in LMI communities.

**The Federal Reserve Must Back any Changes in Data Collection with Thorough Data to Support the Need for Banks to collect Additional Data**

Changes to where CRA activity is measured must be backed by appropriate and thorough data. As the Federal Reserve recognizes throughout much of the ANPR, proper data must be collected to ensure a modernized framework would not overly complicate or hinder CRA activity. The Federal Reserve should be targeted in any data requests moving forward to ensure the burdens of collecting the data do not outweigh the benefits its collection. For smaller financial institutions, the data reporting requirements today are already burdensome. Increasing data reporting that is either not supported by strong FRB data sets or extraneous reporting requirements could hamper the vibrancy of community banks.

**Developing Retail Lending Metrics Can Help Create Objectivity in CRA Performance**

First Commonwealth appreciates the Federal Reserve's understanding of the need for greater clarity and transparency through the retail lending evaluation. Current evaluation measures are vague on the levels of activity necessary to achieve particular ratings, and we advocate for the establishment of appropriate metrics and thresholds that will help to better regulate and facilitate effective retail lending activity.

First Commonwealth is encouraged by the metrics proposed by the Federal Reserve in the ANPR and feels proper use of tailored quantitative metrics can help increase transparency and certainty throughout the evaluation process. The use of tailored geographic and borrower metrics can help serve as the foundation for important performance context factors and examiner judgment throughout the evaluation process and will ground CRA evaluations in quantitative measures. Still, the Federal Reserve should proceed with caution when implementing new standards, benchmarks, and thresholds to ensure the new framework does not strictly limit the responsiveness of different CRA activities and models.

We also feel strongly that the Federal Reserve should exclude corporate and commercial deposits in its various retail lending metrics and screens. The use of retail domestic deposits more accurately reflects the markets which banks serve through CRA activity, better represents banks' capacity to lend and invest, and better holds a nexus to CRA's stated purpose. Corporate and commercial deposits can greatly skew CRA obligations, and their exclusion will lead to more responsive CRA behavior.

**The Federal Reserve's Retail Lending Screen Should Not Create Affirmative Obligations for Banks**

First Commonwealth is optimistic about the potential benefits of a retail lending screen as the first step to evaluating a bank's retail lending activity. However, we urge the Federal Reserve to clarify the retail lending screen is not intended to set an affirmative obligation for banks to reach a certain level of activity to receive a "Satisfactory" or "Outstanding" rating. Although we feel efforts to establish this screen to streamline a presumption of "Satisfactory" are well-founded, the Federal Reserve should still consider important performance context factors in making its evaluation.

For instance, the retail lending screen could create a distorted assumption of the retail lending activity a bank facilitates in areas which are disproportionately deposit rich. This could include areas such as where a bank has its headquarters location which will inherently require a more qualitative analysis of the borrower demographics at play. Further, the Federal Reserve should consider how deposits are collected and recorded at various institutions, as variations in deposits may skew the basis for the retail lending screen.

**The Federal Reserve Should Use Loan Counts in its Retail Distribution Analysis**

First Commonwealth agrees with the ANPR's analysis that continuing to count originations and purchased loans as part of the retail lending distribution analysis is a sounder approach than evaluating the dollar amounts of these loans. Basing the analysis on originations and purchased loans will avoid major regulatory and data collection burdens and create a more solid foundation for analysis. More importantly, this approach will help ensure sufficient consideration for mortgages and small business loan programs which are vital to serving communities but may not result in large dollar volumes for review.

**The Federal Reserve Should Proceed with Caution in Combining Categories for its Retail Distribution Analysis**

First Commonwealth appreciates the Federal Reserve's stated goal of simplifying aspects of the retail distribution metrics. However, we are concerned about the practical impacts of combining various categories of the evaluation. We urge the Federal Reserve to allow for optionality in the combination of various categories throughout an examination to ensure the statutory purposes of CRA are met while streamlining procedures.

As an example of why optionality is critical, we'd share our concern about the impacts of combining mortgage and home equity line of credit (HELOC) data through the Federal Reserve's analysis. HELOC products are significantly different from mortgages, and to collate these categories would require such great performance context evaluations, any potential benefits of combination would be lost. First Commonwealth advocates the Federal Reserve move off its premise of combining these categories for all institutions, and once again argues it should be permitted at bank option to ensure both products are properly represented in future evaluations.

**Changes to Benchmarks should be Carefully Considered**

First Commonwealth is optimistic about the Federal Reserve's use of various benchmarks designed to establish more quantitative thresholds for existing comparators for regulated institutions. Proper and efficient standards which reflect the real market conditions where banks conduct CRA activity is vital to ensuring evaluation measures are appropriately set and maintained. We are further encouraged by language in the ANPR establishing a quantitative approach for institutions to receive a presumption of "Satisfactory". As noted above when discussing the initial retail lending screen, it is important whatever quantitative factors are set are established only to provide a presumption of "Satisfactory", but not instead used as hurdles banks must overcome to receive that rating.

The Federal Reserve should be cautious in moving forward with different datasets in setting the planned community and market benchmarks. We urge the Federal Reserve to continue to closely analyze these data sources and their effectiveness in setting benchmarks. However, as non-bank lenders account for an increasing market-share of mortgage and consumer lending activity without CRA obligations, including non-banks in these datasets may paint a skewed picture of the actual activity in an area. Including only data from deposit-taking institutions can help ensure benchmarks are set properly in underserved and smaller markets and can further safeguard more accurate and considerate activity. The Federal Reserve should continue to closely analyze the impacts of including these broad datasets in the benchmark calculations to ensure accurate expectations are set.

First Commonwealth is optimistic about the flexibility provided for setting community and market thresholds and believes much of the accommodations the Federal Reserve has taken in determining which will be binding can help banks continue to serve communities even if rapid change takes place within. Guardrails around how much expectations may fluctuate will ensure the thresholds remain reflective of the individual context of each changing market condition.

As the Federal Reserve considers changes to its benchmarks and the data it uses to establish new procedures, the Federal Reserve should continue to collect data from all sources necessary to set benchmarks. As noted above, the inclusion of certain datasets may skew benchmarks, so the Federal Reserve should proceed with caution before determining their approach to evaluating thresholds for activity such as consumer lending. The use of proper and sound data sets will similarly help ensure presumptions of "Satisfactory" and other benchmarks are properly established for difficult to serve communities.

**The Federal Reserve Should Incentivize Activity Through Presumptions**

First Commonwealth appreciates the Federal Reserve's data-driven approach to establishing potential threshold levels and the commitment to providing a presumption of "Satisfactory". In our initial review of the ANPR's proposed threshold levels of 65 and 70 percent for the community and market benchmarks respectively, we feel it is clear these were calculated with a firm foundation and understanding of the underlying data.

**The Federal Reserve Should Continue to Consider Full Performance Context**

First Commonwealth is concerned by language in the ANPR intending to restrict the use of performance context to exclude economic factors or other conditions affecting assessment areas as a whole and feels examiners should not be restricted to using bank-specific performance context factors. While aspects of much of the analysis performance context provides may be included in the ANPR's proposed benchmarks, CRA examinations are still far too nuanced and intricate a process to eliminate full performance context in deciding ratings for institutions.

Practically, there often exists a lag in the data provided to many institutions and examiners on which they base CRA activity. Ignoring practical challenges at each institution in an effort to streamline and limit examiner judgment may actually hinder the accurate representation of CRA activity conducted in an assessment area. Furthermore, the use of innovative, complex, and responsive factors should be used in determining performance context, these should not be the only factors considered, and the Federal Reserve should not overly specify the activity which will qualify for each.

Examiner judgment is often critical when evaluating the specific economic factors facing each individual institution and limiting it at this crucial stage could negatively impact banks working to respond to the most difficult of community needs. The Federal Reserve should ensure full performance context, tied to the quantitative factors outlined in the benchmarks, is provided for institutions to ensure they are best able to respond to developing community needs.

**Flexibility is Required in Branch Distribution Analyses**

First Commonwealth agrees with the Federal Reserve that while non-branch delivery channels may increase and banking will continue to transform, branches still hold CRA importance and are often vital to many LMI communities.

The Federal Reserve's language indicating benchmarks are meant only to set the foundation for analysis of branch distribution, and not become thresholds institutions must meet in each assessment area is apt. As outlined in the discussion throughout the ANPR, the data used can help give important performance context to where branches are located within an assessment area, which can help examiners evaluate branch distribution. This performance context is necessary for a full evaluation not solely determined on the number of branches in LMI areas. Still, establishing more transparent benchmarks surrounding branch distribution is pertinent and will be useful to ensuring branches continue to serve those communities which need them most.

We feel the need for proper performance context is underpinned by the Federal Reserve's discussion on requiring a minimum number of branches in an assessment area to conduct a branch distribution analysis. Performance context can help determine when a branch distribution analysis should be conducted, and it may similarly prove a distribution analysis is not warranted in each assessment area. We are concerned about setting strict thresholds on when the distribution analysis should be conducted and offers the Federal Reserve should once again take a flexible approach in providing options on when the analysis will occur. Data points such as deposit market share may be useful in any quantitative analysis the Federal Reserve plans to conduct, but we once again offer flexible options tailored to bank activity will best streamline the evaluation process.

**The Federal Reserve Should Ensure Optionality in the Reporting of Deposit Product Data**

While First Commonwealth values the Federal Reserve's attempts to strengthen the evaluation of deposit products which are particularly responsive to LMI communities and consumers, we urge the Federal Reserve to continue to make many of the proposed features optional for regulated institutions. Banks already submit huge swaths of data on the proposed categories which would serve the stated goals of increasing transparency and provide more information on the types of deposit products which should be considered. Given the recognized challenges of providing new and often proprietary data to the Federal Reserve, banks should be permitted to submit this data and take part in the resulting analysis at their option. The Federal Reserve will likely still be able to determine the scope and role of deposit products in serving LMI consumers based on the data already provided if reporting is at bank option.

Similarly, banks should retain the option to provide deposit product and usage data at the assessment area level. While we understand some aspects of this data may be more useful in an assessment area analysis, often, banks are precluded from collecting information for certain deposit products, and it could be similarly difficult to provide meaningful data to examiners. It will often be impossible to show many of the products are LMI serving, and the data collection would be a significant expansion on current data requirements. Allowing banks to provide this information at their option will help those institutions able to provide the data better display the usefulness and utility of deposit products to LMI communities.

## **Flexibility is Necessary in Retail Lending Subtests**

First Commonwealth appreciates the effort by the Federal Reserve to reflect examinations more accurately on the products and services banks offer. We recognize the approach in the ANPR of analyzing banks' major product lines is aimed to create a flexible approach which is tailored to the specific needs and actions of individual institutions, and we value this flexibility.

### **The Federal Reserve Should Set Flexible Thresholds**

First Commonwealth supports designating major product lines for evaluation under a metric-based approach. As noted in the ANPR, those activities which are not heavily engaged in within an assessment area already receive lower weight under the current evaluation framework. Creating a system which allows banks to focus on the activities which are most prevalent in their business strategies will encourage more responsive activity across assessment areas.

We feel that to maintain flexibility in the proposed framework, the Federal Reserve should set thresholds for major product lines based on the share of each bank's activity with the product. Adopting a method which is responsive to bank model and business instead of an absolute threshold will provide for a more comprehensive and flexible response to CRA activity.

To ensure the new thresholds serve their stated purpose of considering activity based on where banks focus their lending, we encourage the Federal Reserve to raise the threshold from 15 percent in individual assessment areas to 30 percent for home mortgage, small business, and small farm loans. This will better ensure examinations focus on major product lines.

## **Flexibility is Necessary to Increasing Community Development Activity**

In evaluating changes to community development, it is important for the Federal Reserve to continue to weigh the risks of streamlining the reporting of various activities against the real impacts of how this activity is conducted. Allowing for optionality in reporting as well as local tailoring will help ensure community development activities are properly engaged in and reported.

### **First Commonwealth Supports Efforts to Better Quantify Community Development Activity**

First Commonwealth is encouraged by the ANPR's proposed community development metrics, and their impact both within and outside of assessment areas. We support a framework which considers community development activity within an assessment area at the assessment area level, and also makes considerations for community development activity outside of an assessment area at broader statewide or institution ratings.

**The Federal Reserve Should Proceed with Caution Combining Community Development Loans and Investments**

First Commonwealth appreciates efforts by the Federal Reserve to record and encourage community development activity more appropriately by combining loans and investments under one test. As noted within the ANPR, the current regulation may not always reward patient investments which can have the greatest positive impact on a community. As all community development loan and investment activity is eventually evaluated by regulators through an examination, it could be beneficial to combine the two under one subtest to encourage better and more comprehensive community development activity.

Combining community development loans and investments will not only streamline the evaluation process for each, but also help improve the types of community development activity banks engage in every day. We also support counting prior period balances in the new subtest as this will further encourage meaningful, patient community development loans and investments.

**The Federal Reserve Should Clarify & Refine the Community Development Financing Metric**

First Commonwealth values the Federal Reserve's commitment to more accurately qualify community development activity through the use of its community development financing metric. Further, we agree the approach exemplified in the ANPR which focuses on the dollar amounts of community development activity sets a firm foundation for improving qualification.

We agree the use of FDIC SOD data to measure the dollar amount of deposits assigned to branches within an assessment area is the correct data source for the community development financing metric. However, it may prove pertinent for the Federal Reserve to exclude corporate & commercial deposits from this equation. Often, corporate & commercial deposits may skew the data in certain assessment areas, and more importantly, there exists a weaker nexus between these deposits and the statutory purpose of CRA. As such, it may not serve the metric well to include corporate & commercial deposits.

**The Federal Reserve Should Work to Establish Flexible Benchmarks**

While First Commonwealth appreciates efforts to bring more clarity and transparency to community development, we have concerns about the practical impacts the benchmarks described in the ANPR may create. First, similar to concerns raised within the ANPR, we are extremely concerned the levels of data required to properly establish benchmarks may become onerous and would outweigh any potential benefits of its collection. We urge the Federal Reserve to carefully analyze the real costs and frequency of the new data collection to ensure it helps establish sound and reputable benchmarks. Given the data requests proposed by the benchmarks, we are concerned about the sheer frequency of data which would have to be reported to be useful. In particular, for institutions our size and smaller, the costs for collecting, analyzing, and reporting data is challenging. To expand the data reported and/or frequency of reporting would be challenging for banks like ours to absorb.

Additionally, we too are wary about the concerns the Federal Reserve raises in its ANPR regarding disparities in where performance standards are calibrated and set. As echoed in the ANPR, activity in smaller local markets may not get proper consideration, and other assessment areas may in fact have disproportionately high standards to reach. Further, national benchmarks which are too inflexible and standardized will not properly compensate for the disparities in local markets and may once again set unbalanced standards for different institutions. As such, ensuring flexibility is built in to both local and national benchmarks can help ensure they meet their purpose of creating a more objective and transparent CRA regime, without sacrificing the important context and situational awareness required of a comprehensive CRA program.

## Defined Qualifying Activities Will Improve Community Development

First Commonwealth appreciates efforts by the Federal Reserve to better consider what qualifies as community development activity and the commitment to ensuring affordable housing holds its important relevance under a new framework. Broader consideration of these important initiatives can help incentivize their use, and in turn better serve communities through a new framework.

### A. The Federal Reserve Should Increase Consideration for Housing Programs

Working with different affordable housing programs is one of the most vital and responsive activities established throughout CRA. Housing programs should be encouraged and strengthened through CRA reforms. We believe much of the Federal Reserve's proposed definitions will help solidify housing's role in CRA, and advocates for some considerations to make definitions most effective.

First Commonwealth appreciates the Federal Reserve's proposed definition of subsidized housing to include activity taken in conjunction with various government affordable housing programs with the bona fide intent of providing affordable housing. As noted in the ANPR, there are many such programs which need to be considered in any quantitative definition of affordable housing, including LIHTC, federal direct subsidies, and state and local subsidies. Creating a broad definition intended to include these activities will help incentivize their use in the new framework without excluding potentially beneficial activity.

### B. The Federal Reserve Should Set Consistent Definitions

In establishing definitions for affordable properties, the Federal Reserve should strive to establish definitions which are streamlined and consistent throughout a modernized framework. First Commonwealth feels basing affordable rents on 30% of area median income could be a sound definition to establish but urges the Federal Reserve to use similar definitions throughout its framework when determining affordability. Consistent definitions will greatly help increase the reliability and understanding for various activities.

### C. The Federal Reserve Should Provide Broad Consideration for Particularly Responsive Activity

First Commonwealth appreciates the Federal Reserve's intent to better qualify particularly responsive affordable housing activity, we encourage the Federal Reserve to ensure any specification they set includes a broad range of activities.

The Federal Reserve should set a baseline definition which ensures any activity which is particularly responsive in meeting public policy goals may qualify as particularly responsive. We note performance context in this case is already effective in properly considering particularly responsive behavior, and we urge some ensured level of flexibility and nuanced consideration is necessary. The Federal Reserve could also ensure any work through a government program which supports affordable housing activity may qualify to better quantify and incentivize the behavior. Still, a broader definition of this activity will best serve communities and the activity banks look to engage in.

### D. Pro-Rata Consideration is Critical

First Commonwealth supports language in the ANPR looking to improve appropriate consideration for mixed-income developments. Proper investment in mixed-income housing is vital to effective community development in areas with lower poverty rates. It also serves as the foundational basis to improve a community's standing by helping ensure LMI areas do not stay LMI in perpetuity.

Given the importance of the activity, we support efforts to incentivize mixed-income housing consideration. We are optimistic about the ANPR's option of providing a flat rate of 50% consideration for projects which meet a minimum percentage of affordable units. However, we remain concerned about the possibility of activity which did not meet a stated threshold not qualifying for any CRA consideration and advocate for flexibility to ensure all relevant activity is properly qualified and incentivized. While we appreciate the Federal Reserve taking steps to potentially increase the amount of activity which will be considered, we stand committed to ensuring all activity gets qualified appropriately.

### E. The Federal Reserve Should Continue to Promote Economic Development through Financing Small Businesses

First Commonwealth believes activities which qualify for CRA consideration by promoting economic development through financing small businesses are vital public policy initiatives which should continue to receive CRA consideration. Small businesses have historically played a critical role in job creation, with banks providing essential financing through many types of loans and investments. Considering the current COVID-19 pandemic, which is currently causing immeasurable damage to our country's small businesses, it is more important than ever for banks to continue to provide financing to small businesses that help create jobs, and to continue receiving CRA consideration for doing so.

We further urge the Federal Reserve not to restrict what will qualify as promoting economic development by installing new size tests based on gross annual revenue. The proposal as stated could have the opposite of the intended effect of promoting more activity by ensuring less activity will qualify. If through its analysis, the Federal Reserve identifies particular needs, it should work to incentivize that activity using the existing categories which are presumed to qualify to give proper consideration to the activity.

### F. Flexibility is Needed in Clarifying Revitalization and Stabilization Activities

First Commonwealth appreciates efforts in the ANPR to add certainty about the activities which will be considered as part of the revitalization and stabilization subcomponents of the community development definition but offers the Federal Reserve should not overly-restrict the activities which may qualify. As reflected in similar discussions surrounding the creation of lists of qualifying activities, the Federal Reserve should ensure any enumeration of the activities which may qualify as revitalization or stabilization is meant only to provide illustrative examples and not instead create an exclusive list of activities. Any activity the Federal Reserve outlines as qualifying for CRA consideration should be presumed to qualify, but activities not on the list should not be automatically excluded from consideration.

We are also concerned about a strict standard for essential community needs and infrastructure, and feels any standards set should not be applied the same across all geographies. These activities should be encouraged, and a broader definition will better serve communities by allowing for more responsive activity in different areas. Each markets' needs are unique, and different activities will have different impacts in different geographies. The same standard should not be applied across all as this could ignore these key differences in behavior and responsiveness, harming the CRA activity conducted within.

### G. Pre-Notice for Qualifying Activities is Critical

First Commonwealth supports the establishment of a publicly available, illustrative, and non-exhaustive list of qualifying activities. Such a list will help banks ascertain which activities will receive CRA consideration, provide greater transparency, and enable improved consistency across banks being evaluated. First Commonwealth urges the Federal Reserve to establish an illustrative list of activity presumed to qualify in conjunction with federal regulatory partners to ensure consistency between the lists. Ensuring the lists remain illustrative will allow CRA practitioners more flexibility in engaging in new and innovative activity, provided the Federal Reserve also establishes an efficient pre-approval process for activities not on the illustrative list.

To best encourage new and innovative activities, the Federal Reserve should establish a process for reviewing and approving or denying new activity requests within 30 days. Often, banks must move quickly to take advantage of innovative opportunities to serve their communities as they arise. Ensuring banks can quickly receive a determination on a particular activity not already on the illustrative list is necessary to encourage innovative behavior.

Additionally, we believe pre-approval mechanisms can be leveraged beyond confirmation of qualifying activities, to allow banks to obtain certainty concerning other bank-specific nuances during an evaluation period as discussed throughout the ANPR. Such conversations that may currently occur in the course of a performance evaluation could be resolved earlier and further foster the goals of examination clarity and transparency.

**Improvements to Ratings Can Better Incentivize CRA Activity**

First Commonwealth agrees with the assertion in the ANPR that often evaluation ratings have been far too subjective a process, with examiner judgment and discretion often a dominating factor in a bank's rated performance.

**The Federal Reserve Should Carefully Consider Changes to Weighting Assessment Areas**

While First Commonwealth values efforts to better weight assessment areas based on the levels of activity which take place therein, we urge the Federal Reserve to carefully consider if the proposed weighted average approach is effective. We feel adhering to current weighting approaches found in today's framework may better serve the stated goals of ensuring more clarity throughout an evaluation. The use of deposits in weighting assessment areas, paired with proper performance context evaluations may better serve communities than the weighting approach including lending activities proposed in the ANPR.

First Commonwealth appreciates the Federal Reserve's efforts to ensure all activity is properly assessed in the new weighting approach, however, we feel the use of lending data may not provide much valuable insight for the burdens of properly collecting and recording the information. We feel weights should be grounded in the levels of deposits within assessment areas as lending data will not provide much usable information. Further it is uncommon that markets would have a significant disparity in lending activity to deposits. We believe the use of proper performance context tied with a deposits-weighted approach will best impact the various communities we serve.

As such, elimination of the current use of whole and limited scope assessment areas may not be pertinent. Many of the changes the Federal Reserve proposes will not have an appreciable effect on ensuring proper weight is given within assessment areas, so the Federal Reserve should proceed with caution in making any changes.

**The Federal Reserve Should Be Cautious in Capping Assessment Area Ratings**

First Commonwealth understands the purpose of limiting overall state or multistate MSA ratings if there exists a pattern of weaker performance in multiple assessment areas. We urge the Federal Reserve to base these limits off of deposit weights, not an arbitrary threshold. For example, if a bank received a "Satisfactory" rating in more than 50% of assessment areas by deposit size, that would be a more efficient cap on an "Outstanding" rating than setting a hard limit of 50% of assessment areas. Weighting the evaluation will help ensure an overall state or multistate MSA rating is reflective of the overall activity among a majority of the assessment areas.

**Clarity is Needed for "Needs to Improve" Downgrades**

First Commonwealth feels more specificity is needed on downgrading an institution's performance for "Needs to Improve" or "Substantial Non-Compliance" before the Federal Reserve moves forward with this concept. Establishing more quantitative factors for what is considered "appreciable improvement" by the next examination, as well as the factors examiners will consider as part of the performance context evaluation will be helpful in ensuring any standards for low performance are set accordingly.

This stands as another example of why properly weighting assessment area performance is necessary if whole and limited scope assessment areas are to be eliminated. Some smaller and limited markets may prove more difficult to engage in, and these markets should not degrade the entire state or multistate MSA rating. Once again, more quantitative factors on how this assessment will be conducted are necessary.

**The Federal Reserve Should Not Eliminate High & Low Satisfactory Designations**

While we understand efforts to streamline and bring greater efficiency to ratings systems, we do not feel the elimination of high and low satisfactory designations is pertinent. Any perceived benefits of streamlining the ratings system in this way are heavily outweighed by the likely negative implications of its elimination. The elimination of high and low satisfactory ratings will result in diminished CRA performance across the nation as it encourages compliance with "Satisfactory" ratings instead of incentivizes increase activity by striving for a high satisfactory on the way to an "Outstanding". There is little downside for retaining the designations between high and low satisfactory, and much positive impact of keeping the designations.

**<u>The Federal Reserve Should Be Cautious in Any New Data Requests</u>**

First Commonwealth appreciates efforts by the Federal Reserve to build much of their framework on existing data, and to minimize new data collections in modernization efforts. We understand inherently, a new framework will require some new sources of data and encourages the Federal Reserve to closely evaluate the real burdens any new collection will pose against the potential benefits of the new data in a modernized framework. We also urge the Federal Reserve to carefully consider the frequency at which data is reported to ensure the reporting is accurate without becoming unduly burdensome on reporting institutions.

The Federal Reserve should permit banks the flexibility to choose which datasets to report and qualify as part of their CRA activity. Banks are best situated to determine which programs, loans, investments, etc. are pertinent to report as part of their CRA examinations. They should be permitted to choose which of these activities to report throughout an evaluation to limit the burdens of reporting and qualifying the data.

Once again, First Commonwealth appreciates the thoughtful and thorough nature of the Federal Reserve's ANPR. We are committed to working with the Federal Reserve, the FDIC, and all applicable regulatory bodies on ensuring CRA modernization works for the communities we serve. Thank you for the opportunity to share our comments throughout the modernization process.

Should you have any questions or concerns, please don't hesitate to contact me at any time.

Sincerely,

Evan Zuverink

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