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October 29, 2021

Chief Counsel's Office
Attn: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Re: Community Reinvestment Act Notice of Proposed Rule Making
Docket No. OCC-2021-0014

Dear Madam or Sir:

The Iowa Bankers Association (IBA) is a trade association representing 98 percent of the almost 300 state- and national-chartered banks and federal thrifts operating in the state of Iowa. The IBA submits this letter to the Office of the Comptroller of the Currency (OCC) in response to a request for comments on its notice of proposed rulemaking (NPR) to rescind the OCC's 2020 CRA final rule (2020 Rule) and replace it with rules based on the 1995 Community Reinvestment Act (1995 Rule), as revised in the proposal.

We thank the Comptroller for the opportunity to provide input related to proposed rescission of the 2020 Rule. IBA member banks are committed to the goals of CRA and to meeting the credit and financial services needs of their customers and communities. They have invested considerable time and resources into their CRA programs and in understanding the needs of the communities they serve.

SUPPORT FOR INTENTIONS OF PROPOSAL

In general, the IBA, on behalf of its members, supports the OCC's overall efforts related to the 2020 Rule to improve the CRA regulatory framework by clarifying and expanding what qualifies for CRA credit; expand where CRA activities count; work towards a more objective method to measure CRA activity; and revise data collection, recordkeeping and reporting. IBA members supervised by the OCC have worked diligently to implement the 2020 Rule but share concerns related to the provisions not yet in effect. While member banks appreciate the OCC's acknowledgement of the challenges posed by the 2020 Rule, they stress that reverting back to a rule that parallels the 1995 Rule would be problematic and could cause regulatory disruption. Therefore, IBA members recommend the OCC continue to allow banks to follow the 2020 Rule provisions effective as of October 1, 2020 and apply the 1995 Rule for those provisions with a compliance date of January 1, 2023 or January 1, 2024, or for those provisions yet to be implemented.

REGULATORY BURDEN/WHIPLASH

The 2020 Rule went into effect over a year ago. As such, banks have already implemented provisions that had a compliance date of October 1, 2020 and made other changes to the CRA programs based on the 2020 Rule. Reverting back to the 1995 Rule for these provisions would be disruptive and require unnecessary expense and effort, only to then put in place new processes upon the implementation of a new interagency CRA rule in the future. Banks should be allowed to retain those modified programs, including application of the qualified activities criteria, definitions of distressed and underserved areas, credit for activities outside the bank's assessment area, and the CRA Notice and public file changes.

Due to the timing requirements in the 2020 Rule, banks have already made changes to their CRA notices and public files and should be permitted to retain those changes as the substance of both the 1995 and 2020 Rule related to these provisions is substantially similar. Requiring banks make these additional changes by January 1, 2022 per the proposal would result in unnecessary costs related to signage. Moreover, requiring banks to add back data to their Public Files that is now publicly available is unnecessary.

Banks that have not yet fully implemented provisions with a compliance date of October 1, 2020 due to indications that the OCC planned to rescind the CRA rule should be allowed to retain their existing programs as long as the programs comply with provisions in either the 1995 Rule or the 2020 Rule. For example, banks that made commitments for CRA qualified activities under the 2020 Rule, should be allowed to continue with these programs as they align with the 2020 Rule. Banks that have not yet fully implemented the requirement to modify their assessment areas to include full counties should be allowed to retain their assessment areas in their current state as they currently comply with the 1995 Rule.

Further, the IBA members urge the OCC not only provide credit for qualifying activities under the 2020 Rule completed prior to the rescission date of the 2020 Rule, but allow banks to execute programs in process and roll out new initiatives based on the 2020 Rule if developed in good faith and in reliance on the 2020 Rule.

ASSET THRESHOLDS

IBA member banks also strongly encourage the OCC retain the 2020 Rule asset thresholds until an interagency rule is promulgated. The 2020 Rule defines a "large bank" as a bank with assets of more than \$2.5 billion. The 1995 definition of a large bank is a financial institution with assets of \$1.322 billion or more. The OCC assumes that transitioning back to the 1995 asset thresholds would be easy, however, the reverse is true as it causes some Intermediate Small Banks (ISBs) to again be subject to the large bank data collection rules. Iowa currently has 14 banks supervised by the OCC. Seven percent of those banks were not considered large banks under the 2020 Rule but would be considered large banks under the 1995 Rule. These banks had assets below the 1995 threshold for large banks when the 2020 Rule went into effect, meaning they have never be considered a large bank under either rule but would be immediately considered a large bank if the 2020 Rule was rescinded and the 1995 Rule became effective again. The proposal allows for a one-year transition period. This is not adequate in the current banking environment. Transitioning back to the 1995 asset thresholds will be problematic, especially due to the inflated balanced sheets of many financial institutions due to government programs related to the COVID-19 pandemic. Not only would banks that are familiar with the data collection rules be required to reinstate these processes, banks that were never subject to the rule because they fell below

the 1995 threshold prior to the pandemic would need to develop and implement full programs in a short period of time.

The asset threshold change from a “small bank” to an ISB is problematic as well. Under the 2020 Rule, a small bank is defined as a financial institution with assets of less than \$600 million resulting in relief to several ISBs that now fall under the small bank regime. Over 35% of Iowa banks supervised by the OCC would be required to implement or re-implement their ISB programs due to the 2020 Rule rescission. By reverting to the 1995 asset threshold of \$330 million, these banks would now need to implement their community development collection processes in less than 30 days. This is not acceptable and would create undue burden on these institutions as they continue to work with customers impacted by the pandemic.

Implementing or restarting these programs would not only include modifying the bank’s current procedures and processes, but possibly repurchasing CRA software, educating specific lines of business about the requirements, updating job aids, implementing the new requirements and testing processes, etc. Therefore, on behalf of its members, the IBA strongly recommends the OCC retain the 2020 Rule asset thresholds until a new interagency rule is in place. The new rule would most likely involve increased asset thresholds similar to the 2020 Rule, providing consistency for these financial institutions.

TRANSITION PERIOD

IBA members do not support a full rescission of the October 1, 2020 provisions of the 2020 Rule. Instead, members strongly suggest the OCC provide flexibility for financial institutions, allowing them to retain provisions in either rule until a new interagency rule is promulgated. If the OCC elects to revert to the 1995 Rule in its entirety, IBA members suggest the OCC provide a transition period similar to the original OCC CRA proposal. This proposal stated when a bank’s assets increase to the point they would no longer be considered a “small” bank for CRA purposes, the rule would allow for a minimum two-year transition period to the general performance standard requirements used for reporting. The same thought process applies to the 1995 data collection and reporting requirements.

For banks that were small banks under the 2020 Rule that would be classified as ISB’s under the 1995 Rule, at a minimum, IBA members recommend no less than a one-year transition period. Members indicate it is best to take the proper amount of time to transition back from the 2020 Rule to the 1995 Rule rather than move quickly and end up with industry confusion and inaccurate data.

IBA members further suggest regulators allow for “good faith efforts” during each exam period following the rescission of the 2020 Rule until the new interagency rule is developed. This would include not issuing a “Needs to Improve” rating based on inaccuracies or deficiencies in data collection or calculations if the bank demonstrates their program was developed and administered in good faith, giving the bank reasonable time to correct those deficiencies prior to issuing the final Performance Evaluation rating. The IBA requests the OCC minimize these transitions, associated burdens, and inevitable confusion that will come with implementing transitions in a short timeframe.

INTERAGENCY COORDINATION

IBA member banks continue to urge all three banking agencies – the OCC, FDIC and the Federal Reserve – to develop a CRA rule that is issued on an interagency basis. Some member banks have multiple charters and are examined by multiple regulatory agencies. Having different methods of evaluation creates significant regulatory burden on these banks and results in confusion for community groups

attempting to develop community projects using differing CRA qualification definitions, as well as reviewing Performance Evaluations. The rescission of key parts of the OCC's 2020 CRA Rule, meaning those with a compliance date of January 1, 2023 or January 1, 2024, and replacing them with an interagency CRA rule is the best path forward.

SUMMARY

IBA member banks are fully committed to the purpose of CRA. They live, work, play and worship in the communities they serve. They are active in their communities and act as partners to organizations, businesses and individuals helping them thrive. The OCC, as noted in [Bulletin 2021-24](#), indicates its comfort with suspending the implementation of provisions with a compliance date of January 1, 2023 and January 1, 2024 and the continuation of provisions that had a compliance date of October 1, 2020. Member banks agree with this assessment and support allowing financial institutions to retain the changes made as of October 1, 2020 if they are already implemented. If not yet implemented, financial institutions should be able to retain the 1995 Rule provisions, as applicable. This stance would provide consistency among institutions supervised by the OCC, FDIC, and the Federal Reserve because OCC-supervised institutions would continue to be in compliance with most provisions of the 1995 Rule.

While IBA member banks agree it is time to reassess the CRA, they also agree this should be done thoughtfully and on an interagency basis, ensuring a unified standard regardless of regulator. IBA member banks have invested considerable time and effort into their current programs and with success as demonstrated year over year with Satisfactory or greater ratings. Regarding the upcoming interagency rulemaking process, IBA members implore the agencies to take the appropriate amount of time to develop a rule that both accomplishes the goals of the CRA and minimizes burden on banks.

We thank the OCC for its thoughtful consideration of our comments. If you have any questions related to these comments, please feel free to contact me at 800-532-1423, ext. 2981 or via the email address below. Thank you for your time and consideration.

Respectfully submitted by,

Julie Gliha

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