CBAI Comment Letter to the Federal Reserve Urges Constructive Modernization of the CRA

CBAI's detailed comment letter to the Board of Governors of the Federal Reserve System on February 16, 2021, was the latest of several responses to rulemaking submitted to the regulators in support of a constructive modernization of the Community Reinvestment Act (CRA). A consistent theme has been the need to modernize the CRA to reflect new technologies, customer preferences in the delivery of banking services, and it is also an opportunity to highlight and retain parts of the Act, identify missed opportunities for additional credit, reduce the regulatory burden on community banks, and include for compliance other financial services providers.

CBAI's comment letter recommended:

- The need for safe and sound operations must not be minimized or lost in the modernization of the CRA.

- The overwhelmingly positive CRA examination results reflect the fact that over 95% of the bank are community banks, and not the result of a flaw in the requirements or examinations which need strengthening.

- All financial service providers, including credit unions, must be subject to the CRA regulations and be examined for compliance. This regulatory double standard is harming community banks and eliminating it will help level the playing field.

- A joint Agency rulemaking effort to modernize the CRA will greatly benefit from interagency dialogue, collaboration and joint rulemaking culminating in a joint final CRA rule of high quality and consistency, which will command greater respect, support and legitimacy.

- There must be a clear and inclusive definition of individuals and communities for CRA credit, a multiple of CRA credit should be earned for loans which provide the greatest benefit to LMI individuals and in LMI areas, without discounting the value of lending to non-LMI individuals and in non-LMI areas.

- Assessment Area revisions in the CRA should reflect how modern technology is being used in product design and service delivery and encourage and promote the strong community bank physical presence in Assessment Areas. Assessment Areas must also be drawn by the community banks and not by the regulators.

- Caution be exercised in the implementation of a highly prescriptive metric-based scoring system to not loose reasonable flexibility and discretion in considering quantitative and qualitative factors.

- Regarding the many proposed changes including Assessment Area revisions and a proposed metric-based scoring system, the Fed should commit to a near-term formal review and public comment period to identify and correct any problems with their Final Rule that are subsequently discovered.

- Increasing the asset exemption threshold to less than $5 billion for small banks, greater than $5 billion large banks, and retain the intermediate small bank category. If the Fed is unwilling to approve these increases and are determined to remove the intermediate small bank category, then the small bank asset threshold should be set at least where it is now ($1.322 billion) and continue to be indexed to inflation.

- The non-traditional delivery of financial services should be considered as an additional (incremental) but not superior method of delivering these services versus brick and mortar home office and branch locations. A financial institution's presence in an area or community should be weighted with a home office receiving the greatest CRA credit, followed by branches, ATMs and then a digital-only presence.

- A multiple of CRA credit should be given to deposit products and loans that meet the basic needs of LMI individuals in LMI areas, without discounting the value of loans to non-LMI individuals in non-LMI areas.

- Expand CRA credit for small business and small farm lending by increasing the loan and revenue thresholds to a minimum of $5 million/$2.5 million, grant a multiple of CRA credit if these loans are to LMI individuals in LMI areas, and index these thresholds to inflation.

- CRA credit should be given for banks investing in (and holding) Mortgage Backed Securities which contain residential mortgages particularly from LMI areas within the banks' Assessment Area and/or to LMI individuals. This CRA credit should be ongoing as long as the security is held by the bank.

- The enormous positive impact of the FHLBanks, including their contributions to affordable housing and community development, which is made possible by the FHLBanks' members, that a reconsideration and exception be made to the *primary purpose* requirement so community banks may receive CRA credit for membership and all activity with their FHLBanks.

- All banks' community services hours should be eligible for CRA credit if they are performed in the Assessment Area regardless of whether the service was performed in an LMI area or not, and at a predetermined standard rate with an appropriate multiplier.

- Activities which assist MDIs and CDFIs, including addressing their capital challenges, be eligible for a multiple of CRA credit. Deposits in MWLIs by financial institutions (of any asset size) should be eligible for a multiple of CRA credit.

- A more transparent process for determining if an activity is eligible for CRA credit and the list of activities be updated and posted on the Fed's website as new opportunities for CRA credit are approved or denied.

- The CRA information that is currently being collected by small banks is sufficient for all concerned parties (i.e., regulators and communities) to evaluate their community reinvestment performance.

- At a community a bank's option, it be allowed to provide access to the public file containing the required information electronically on the bank's website, so that customers do not have to visit the bank or wait for a copy to be delivered.

- Finally, the implementation date for the Fed's Final Rule should be sufficient to allow community banks that will be subject to the new requirements a reasonable period to comply, particularly in light of the disruptions caused by the COVID-19 pandemic.

Read CBAI's Comment Letter »