



December 24, 2021

Via Electronic Delivery to Craig.Cellini@illinois.gov

Craig Cellini
Illinois Department of Financial and Professional Regulation
320 West Washington, 3rd Floor
Springfield, Illinois 62786

Re: Illinois Community Reinvestment Act: Advance Notice of Proposed Rulemaking

Mr. Cellini:

The Illinois Bankers Association (IBA)¹ is writing on behalf of its members to comment on the Illinois Department of Financial and Professional Regulation (IDFPR)'s advance notice of proposed rulemaking under the Illinois Community Reinvestment Act (Illinois CRA).

We appreciate the IDFPR's efforts to solicit input from the public in crafting Illinois CRA rules that we trust will provide guidance and clarity for banks and examiners. We strongly support the Illinois CRA's goals, and our members have dedicated immense resources to meet the credit needs of the communities they support and rely on, particularly in low- and moderate-income areas.

We urge the IDFPR to wait for the federal banking agencies to complete the modernization of their CRA rules. While it now appears that the federal banking agencies will issue a unified proposal and have abandoned the splintered approach to CRA modernization that they were pursuing until last year, the confusion they have sown has not yet been resolved. Most recently, on December 14, 2021, the OCC rescinded the sweeping new CRA rules that it had finalized last year and reverted its CRA rules to the 1995 interagency rules. The OCC included complex transition provisions to assist banks that had begun to implement its previous final rule, but those transition provisions are inadequate for some banks that had already shifted to the OCC's new CRA regime.

We urge the IDFPR to avoid adding to the already confusing CRA regulatory environment. Instead, we recommend waiting for the federal agencies to propose and finalize their CRA modernization efforts before layering on new requirements.

Illinois CRA supervision should take a targeted, risk-focused approach for banks. As acknowledged in the advance notice of proposed rulemaking, banks and savings banks established under Illinois law are subject to the federal CRA, including regular examinations and evaluations by their primary federal regulators. None of the other entities covered by the Illinois CRA are subject to that type or frequency of oversight regarding their community investment activity. The Illinois CRA rules should take into account the unique position of Illinois banks and savings banks. The IDFPR should adopt a targeted, risk-based approach for banks rather than creating a new regime for periodic Illinois CRA exams that would be largely duplicative of banks' ongoing federal CRA exams.

The effective date of the Illinois CRA rulemaking should include a reasonable implementation period. New CRA obligations require extended implementation periods to ensure that new data can be reported completely and accurately, employees trained, and systems tested. These tasks require considerable employee time and resources. For these reasons, the OCC's now-rescinded CRA overhaul included implementation periods of 3.5 years for most covered banks. Because the Illinois CRA rules may include entirely new provisions on assessment area delineations, data reporting, recordkeeping,

¹ The Illinois Bankers Association is a full-service trade association dedicated to creating a positive business climate for the entire banking industry and the communities we serve. Founded in 1891, the IBA brings together state and national banks and savings banks of all sizes in Illinois. Over 40% of IBA members are community banks with less than \$150 million in assets, and over 75% of IBA members are community banks with less than \$500 million in assets. Collectively, the IBA represents nearly 90% of the assets of the Illinois banking industry, which employs more than 105,000 men and women in over 5,000 offices across the state.

examinations, and evaluations, we recommend building in even longer implementation periods for the Illinois CRA rules.

Account for banks' significant compliance burdens under the federal CRA. The Illinois CRA regulations should reflect the commitment made by banks under the federal CRA, which imposes extensive supervision, examination, and public evaluation requirements. Our members expend significant staff time and resources on conducting due diligence, analysis, and documentation to prove that their activities and investments should receive federal CRA credit. We urge the IDFPR to avoid adding unnecessary burdens — ensuring that banks can instead deploy resources in their communities, through lending and investments, marketing to low- and moderate-communities, and promoting financial literacy and other worthy causes.

Avoid unnecessary and costly application processing delays. A significant contributor to the costs of federal CRA supervision is the potential for major delays in the processing of bank merger, consolidation, and other types of supervisory applications. The filing of just one nonsubstantive protest by one group can result in multiple months of delays in the processing of an application. As a result, we have seen a small number of community groups leveraging the threat of such regulatory delays to demand certain investments from banks operating in their territories. We do not believe that the Illinois CRA's goals would be met if covered institutions can be forced into making unwise loans or donations on such a basis, which ultimately serves only to move dollars away from more worthy organizations and causes.

Tailor Illinois CRA requirements for small banks and banks operating in rural areas. Many smaller banks, and particularly those operating in rural areas, have unique challenges. Applying the same CRA expectations for larger banks to these banks can be unrealistic and counterproductive.

Adjust thresholds and other dollar amounts for inflation. Over the years, every dollar threshold established under the federal CRA rules have become outdated (for example, the federal CRA's \$1 million limit for qualification as a small business loan established in 1977 should stand at nearly \$4.5 million today, as adjusted for inflation). We encourage the use of annual inflation adjustments to avoid similar results.

Avoid the creation of complex, unwritten, and subjective requirements. Our members have observed that the federal CRA examination process is opaque and often unpredictable. Because federal CRA regulations lack much of the detail needed to complete CRA evaluations, examiners have developed individualized evaluation frameworks at their own discretion, often layering on their own criteria without any basis in law, regulation, or guidance — for example, after observing a best practice that works for one bank, examiners improperly impose that practice on other banks as if it were a regulatory requirement.

Consider the unique position of CDFIs and their stringent reporting requirements. Five banks in Illinois have been designated as Community Development Financial Institutions (CDFIs). CDFI banks have a primary mission of community development and work in impoverished urban, rural, and Native American communities. CDFIs must seek recertification from the U.S. Treasury's CDFI Fund annually, demonstrating that at least 60% of their total lending, services, and other activities are targeted to specified low- and moderate-income communities. Because CDFIs are already subject to stringent reporting and other requirements connected with these annual re-certifications, we ask that the IDFPR consider exempting CDFIs from new and costly data reporting and recordkeeping requirements.

We appreciate the IDFPR's collaborative and inclusive approach towards rulemaking for the Illinois CRA, and we look forward to ongoing dialogue. Thank you for your consideration of our comments, and please let us know if you have any questions.

Very truly yours,



Carolyn Settanni
Executive Vice President and
General Counsel