Fact Sheet

Advocacy Submits Comments on Proposed Rule Modifying Bank Reporting Requirements Under the Community Reinvestment Act

- On January 9, 2020, the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) published a joint proposed rule on the Community Reinvestment Act (CRA). On April 8, 2020, the Office of Advocacy submitted a letter to the agencies regarding the proposal.

- The purpose of the CRA is to encourage depository institutions to meet the credit needs of the communities in which they operate, including low- and moderate-income neighborhoods. The CRA requires federal regulators (OCC, FDIC, and the Federal Reserve) to assess how well a bank fulfills its obligations to the communities that it serves.

- The agencies propose to strengthen the CRA regulatory framework, making it more objective, transparent, consistent, and easy to understand, in order to better achieve the underlying statutory purpose.

- The proposal redefines small and intermediate banks. The current regulations define a small bank as having less than $1.284 billion in assets in the two prior years ending December 31; an intermediate small bank is one with assets of at least $321 million as of December 31 of the two prior years. The proposal changes the definition of "small" to include banks that have less than $500 million in assets in each of the prior four calendar quarters. The proposal allows small banks to be examined under the small bank performance standards, unless the banks opt into being evaluated under the general performance standards. A small bank may choose to opt in and opt out one time. The proposal also allows for a delayed compliance date for small banks. The proposed rule will affect 722 OCC-regulated small banks and 2,665 FDIC-regulated small banks. Advocacy asserted that the agencies should use the SBA size standard which defines a small bank as one with less than $600 million in assets. Using a different definition will exclude a significant number of small banks and require them to incur 7 to 10 times more in costs. Advocacy appreciates the agencies' attempt to clarify and strengthen the CRA regulations. However, Advocacy asserts that there may be less burdensome alternatives that the agencies should consider under their obligation to comply with the Regulatory Flexibility Act.

- The proposal would allow a small bank to opt into the general standards and then opt out of the standards one time. Advocacy asserted that there should not be a limit on the number of times that a small bank can opt in and out of the general standard. Being able to opt-in and opt out will allow small banks more flexibility in deciding the best strategy for their business plans.

- The proposed rule provides that a bank will only receive credit for 25 percent of the origination value for loans sold within 90 days of origination.[1] If a loan is held for more than 90 days, the bank receives 100 percent credit. If the loan is held for less than 90 days, the bank only receives 35 percent credit. This policy may be unfair to small banks because small banks may not hold loans on their books for longer than 90 days.

- Under the proposal, small banks would be required to collect and maintain information on depositors necessary for the designation of deposit-based assessment areas. Advocacy asserted that this requirement will be expensive for small banks to implement. It will require small banks to build a new collection and incur additional paperwork burdens. Small banks may have very few customers that are not in the area and may not have an Internet presence. Advocacy encouraged the agencies to exempt small banks from this potentially costly requirement.

- The proposal allows for additional compliance time for small banks, but it is confusing. Advocacy asserted that small banks should be allowed a consistent three years to comply. A consistent amount of time will minimize confusion and allow banks the time they need to comply with this costly regulation.

For more information, visit Advocacy's webpage at https://advocacy.sba.gov or contact Jennifer Smith at 202-205-6943.

[1] Id. at 1214.