

November 19, 2018

VIA ELECTRONIC SUBMISSION

Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, D.C. 20219

**Re: Reforming the Community Reinvestment Act Regulatory Framework – Docket ID
OCC-2018-0008**

Dear Comptroller Otting:

The Electronic Transactions Association (“ETA”) submits these comments in response to the Office of the Comptroller of the Currency’s (“OCC’s”) advanced notice of proposed rulemaking entitled *Reforming the Community Reinvestment Act Regulatory Framework*. ETA supports the Community Reinvestment Act’s (“CRA”) purpose and appreciates that the OCC is looking at ways to modernize the regulatory framework to enable insured depository institutions (banks) to better serve their communities. Given the substantial technological changes that have occurred in the banking industry over the four decades since the CRA was enacted, it is imperative the regulatory expectations keep pace with those changes. We believe that a modernization of the regulatory framework will be most successful if the OCC, together with the other federal banking agencies, adheres to five key principles – Flexibility, Simplicity, Consistency, Timeliness, and Transparency.

Who We Are

ETA is the leading trade association for the payments industry, representing over 500 companies that offer electronic transaction processing products and services. ETA’s members include banks, mobile payment service providers, mobile wallet providers and non-bank financial technology companies (“FinTech”) that provide access to credit, primarily to small businesses, either directly or in partnership with other lenders. ETA member companies are creating innovative offerings in financial services, revolutionizing the way commerce is conducted with safe, convenient and rewarding payment solutions and lending alternatives.

Given the changes in the financial services industry, FinTech companies are uniquely suited to offer assistance in a modernization of CRA, as these companies facilitate access to credit and other financial products and services, especially to businesses owned by women, minorities, and other underserved business communities. To that end, we believe that creative partnerships between FinTech companies and banks are critical to serving underserved markets and that such partnerships can act as a force-multiplier for CRA compliance. A modernized regulatory framework should support these partnerships.

Regulatory Harmony

Given the importance of the CRA's mission and the significance of any changes that may be made to its implementation, ETA encourages the OCC to work with the other federal banking agencies so that a modernization of the regulatory framework will enable banks of all types to more effectively and efficiently serve their communities.

Principles

ETA believes that the CRA's implementing regulations should provide not only a framework that permits a bank's CRA activities to align with the needs of the communities it serves, but also a framework that creates an effective and efficient supervisory process that facilitates, rather than hinders, the abilities of banks to serve the communities intended by the statute. When thinking about modernization of the CRA, ETA recommends that the following five principles should serve as a roadmap for federal banking agencies.

- 1. Flexibility**
- 2. Simplicity**
- 3. Consistency**
- 4. Timeliness**
- 5. Transparency**

ETA is cognizant that the current regulatory framework is far from perfect and that a modernization of the framework is unlikely to solve all problems, but if the federal banking agencies adhere to these principles, the revised framework will better enable banks to effectively serve their communities. Additionally, we encourage the OCC and other federal banking agencies to consider the entirety of the principles. While we are aware that in some circumstances there may be a tension between principles, ETA encourages the federal agencies to take a balanced approach. Additionally, while ETA appreciates specific guidance where appropriate, modernization should not create such a rigid framework that banks are unable to find creative ways to help their communities.

Principle 1 - Flexibility

Both banks and the communities they serve would benefit from additional flexibility in the regulatory framework to ensure that the framework enables banks with differing business models to effectively and efficiently serve their communities. More specifically, a modernized regulatory framework and supervisory expectations should be flexible enough to accommodate differing business models, institution sizes, products, services and service areas. The framework should not create a one-size-fits all construct but rather permit individual banks, including new and innovative players, to create a CRA plan that fits their own unique characteristics. In doing so, the federal banking agencies should consider expanding the types of activities and investments that qualify for CRA credit.

The financial services industry, including the manner in which financial products and services are offered, has changed dramatically since the CRA was enacted in 1977, including interstate banking and the rise of internet and mobile banking. These changes have not been fully incorporated into the CRA's regulatory framework and supervisory expectations. As such, ETA encourages the federal banking agencies to consider these and the certainty of future technological changes when modernizing the framework, including providing the necessary flexibility for banks of different models to get credit for the innovative ways in which they invest in and otherwise serve their communities.

FinTech companies can help banks provide innovative and expanded services that enhance the bank's CRA performance. One way to provide flexibility would be to explore partnerships between FinTech firms and other financial services providers that enhance financial opportunity for a broad range of small business customers. There are many types of bank and FinTech partnerships that provide community benefits beyond lending and investment. For example, FinTech companies can help banks conduct financial health and education initiatives and outreach or enable investing in and savings by those outside of mainstream credit environments. There are several innovative ways for banks to use technology to help their communities, and the CRA is a tool that could be used to reward those willing to think outside the box.

Principle 2 - Simplicity

The current CRA regulatory framework is extremely complicated. Given the number of interested parties including banks, regulators, consumers, and policymakers, any modernization of the regulatory framework should provide clear guidance and be simple to understand.

Principle 3 - Consistency

Successful implementation of the CRA depends on consistent and clear guidance for banks, examiners, and the community. Standards need to be consistent across the industry and regulatory expectations should be clear.

One example where consistency can be achieved is in the CRA eligibility determinations. CRA eligibility requirements are vague and determinations inconsistent. There is a need for formal communication channels between banks and federal agencies where banks can receive feedback on potentially qualifying loans and investments. In addition, the federal banking agencies should make eligibility determinations public so that each bank does not need to reinvent the wheel every time they try an innovative way to invest in their communities.

Principle 4 - Timeliness

Any modernization of the regulatory framework should facilitate the timely release of CRA ratings and performance evaluations, providing all stakeholders with a current record of the bank's CRA performance.

Currently, there are often long lag times between the examination period and the receipt of CRA ratings. Many times, the rating may be out of date because exams are administered infrequently. Modernization should address the amount of time between examinations and allow for remediation in a timely manner if a bank does not meet the regulatory expectation during a given exam. The timely issuance of examination results would benefit all.

Principle 5 - Transparency

Regulatory expectations should be transparent and provide a clear compliance road map. Transparency should extend to CRA eligibility. The federal banking agencies should expand the types of loans, investments, and services eligible for CRA credit. By expanding the universe of CRA-eligible activities and making eligibility determinations publicly available, the regulatory framework will better align with the intent of the CRA statute, which ultimately will benefit communities served by banks. ETA believes that the need for modernization of the CRA regulatory framework dictates that regulators should embrace innovative approaches to CRA eligibility, including technology-enabled approaches. This is as important now as it has ever been, particularly considering the changing technology landscape that is trending toward virtual delivery of financial services.

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We appreciate you taking the time to consider these important issues. If you have any questions or wish to discuss any issues, please contact me or ETA Senior Vice President, Scott Talbott at Stalbott@electran.org.

Respectfully submitted,



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