



May 28, 2019

Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th Street, S.W.
Washington, D.C. 20219

Re: Disclosure and Reporting of CRA-Related Agreements; OCC 1557-0219

To Whom it May Concern:

The Consumer Bankers Association (CBA)¹ appreciates the opportunity to comment on the Office of the Comptroller of the Currency's (OCC) Agency Information Collection on Disclosure and Reporting of CRA-Related Activities. CBA members work every day to improve the financial outcomes of their communities; and properly serving low-to -moderate income communities through the Community Reinvestment Act (CRA) is a top priority for our members. However, we believe the value of CRA covered agreements is heavily outweighed by the undue burden they place both on insured depository institutions (IDIs) and non-governmental entity or persons (NGEPs) and as such, would support a repeal of 12 USC § 1831y.

In lieu of a full repeal of 12 USC § 1831y, CBA supports repeal of the quarterly reporting requirement established in 12 CFR 35.6(d) in favor of an annual reporting requirement, as written in 12 USC § 1831y. Annual reporting would do much to alleviate the burden created by the massive amounts of time and workforce put into CRA covered agreements. Additionally, CBA supports only including written, legally binding contracts as covered agreements to better relieve burdens for IDIs and NGEPs looking to enter into less-formal and oral agreements.

I. Repeal of 12 USC § 1831y.

CBA applauds the intent of 12 USC § 1831y to increase transparency between IDIs and NGEPs to better allow both to serve their communities. However, the statute does little to actually prevent IDIs from any harm as they work to make capital available to the all the communities they serve, as was intended by Senator Phil Gramm when the "Sunshine Amendment" was originally created.² What has been left is a burdensome and costly reporting regime that stymies IDIs' CRA activities and creates barriers to IDIs working more deeply with NGEPs.

¹ The Consumer Bankers Association is the trade association for today's leaders in retail banking – banking services geared towards consumers and small businesses. The nation's largest financial institutions, as well as many regional banks, are CBA corporate members, collectively holding two-thirds of the industry's total assets. CBA's mission is to preserve and promote the retail banking industry as it strives to fulfill the financial needs of the American consumer and small business.

² Senator Phil Gramm, *Letter to President Clinton on the Community Reinvestment Act* (Feb. 1, 2019).

Under the current regime, IDIs and NGEPS spend hundreds of hours on covered agreements, dedicating massive amounts of resources for a product that is not appropriately utilized. In its March 2017 Joint Report to Congress, the Federal Financial Institutions Examination Council (FFIEC) stated, “the quarterly and annual reporting of CRA-related agreements and the actions taken pursuant to those agreements are unduly burdensome on both financial institutions and the NGEPS that are parties to the agreements.”³ While not advocating for a repeal of 12 USC § 1831y, the FFIEC did highlight the undue burden annual reporting of covered agreements places on IDIs.

IDIs often note that despite the huge amount of resources dedicated to properly reporting covered agreements, they are rarely requested by examination teams. Often, the massive amount of work put into the agreements reaps little value for any interested stakeholder. As noted in the OCC’s information collection, only 9 annual reports have been filed in the past year, despite IDIs putting in an inordinate amount of work on these agreements to comply with the requirements of 12 USC § 1831y. Many IDIs complete the due diligence and work necessary to properly report a covered agreement, and are never asked for this information by examination teams. As such, 12 USC § 1831y should be repealed to alleviate this massive burden for both IDIs and NGEPS, to better foster an environment where both can work together to better serve communities across the country.

II. Repeal the Quarterly Reporting Requirement in Favor of an Annual Reporting Requirement.

12 USC § 1831y establishes an annual reporting requirement for CRA covered agreements. However, 12 CFR 35.4(b); 35.6-7 have placed a far more burdensome regime on IDIs and NGEPS by creating a quarterly reporting requirement for covered agreements. This compounds many of the issues raised above to greatly slow and deadlock agreements between IDIs and NGEPS to better serve communities, as well as doing little to increase transparency between IDIs and NGEPS as the statute was originally intended. The FFIEC further agreed with stakeholders on the excess burden quarterly reporting creates for both IDIs and NGEPS, and as such, considered whether to discontinue with the quarterly reporting requirement.⁴ CBA agrees with this analysis, and feels doing away with the quarterly reporting requirement would do much to alleviate burdens for IDIs and NGEPS.

III. Raise the Standard of Covered Agreements to Only Include Written Legally Binding Contracts.

Currently, IDIs and NGEPS are required to report on covered agreements, including agreements that reflect a mutual understanding and some oral communications. Forcing IDIs to report on many of these less-formal agreements further enhances the burden placed on IDIs looking to enter into an agreement with NGEPS and obstructs activity in many low-to -moderate income communities. CBA advocates for a more stringent standard on what communications must be reported as covered agreements to alleviate burdens between IDIs and NGEPS, and to

³ Federal Financial Institutions Examination Council, *Joint Report to Congress*, 53-54 available at <https://www.occ.gov/news-issuances/news-releases/2017/nr-ia-2017-33a.pdf> (March, 2017).

⁴ *Id.*

allow for more CRA activity in low-to -moderate income communities. An appropriate bar would be limiting covered agreements only to written, legally binding contracts that many IDIs and NGEPs use today.

IV. Conclusion

CBA greatly appreciates the opportunity to comment on the feasibility and usefulness of covered agreements and encourages the OCC to adopt an approach that better allows IDIs and NGEPs to serve their communities in a more responsive and fluid manner. Please do not hesitate to contact any of the undersigned with questions or to discuss our comments.

Sincerely,

A handwritten signature in cursive script that reads "Stephen Congdon".

Stephen Congdon
Regulatory Counsel
Consumer Bankers Association