



August 5, 2022

Delivered via regulations.gov

Re: Joint Notice of Proposed Rulemaking and Request for Comment on the Community Reinvestment Act - Docket ID OCC-2022-0002

To Whom it May Concern:

We appreciate the opportunity to comment on the Interagency Notice of Proposed Rulemaking regarding the Community Reinvestment Act ("CRA").

About Varo Bank

Varo Bank, N.A. ("Varo Bank") is the first all-digital, nationally chartered U.S. consumer bank built from the ground up, designed to make financial inclusion and opportunity a reality for all. Varo Bank is reimagining the modern banking experience and providing customers with the tools they need to build financial resilience and realize their financial power – with offerings such as Varo Believe, a secured card to help build credit, Varo Advance to help stretch hard-earned dollars between paychecks on affordable terms, the ability to earn cashback at thousands of merchant locations nationwide, and automated savings features such as Save Your Pay and Save Your Change to help utilize our high yield savings account which can earn more than 50x the national average. A different kind of financial institution – Varo Bank serves customers striving to build a better future – from those with abundance to people struggling to make ends meet. Varo Bank has been named one of Forbes' World's Best Banks in 2022, Fast Company's Most Innovative Companies, and ranked No 7 on the Inc 5000 list of fastest growing companies for 2021. Varo's all-in-one solution is helping customers achieve greater financial stability and a path toward building wealth.

At Varo Bank, we are committed to helping consumers and doing so in the right way. We believe everything we do is tied to our overall mission - a mission that is consistent with the underlying policy purpose of CRA. As an inclusive, mission oriented de novo bank chartered with the Office of the Comptroller of the Currency (OCC), and a digital-only bank currently operating under a CRA Strategic Plan, we are in a unique position to offer our thoughts on this CRA proposal.

Why we need a strong, modernized CRA

Varo Bank is an ardent supporter of a strong CRA and we applaud the agencies' collaboration on this CRA modernization proposal. The interagency process is essential for ensuring that the CRA is applied consistently and transparently across all depository institutions, regardless of their primary regulator.

The last major overhaul of the CRA was in 1995, a time when bank branches were the primary provider of financial services. The financial services industry has evolved substantially since that time, most noticeably with the proliferation of mobile and online banking. At Varo Bank, we currently have millions of retail customers across the country and no bank branches. We are using technology to meet the evolving needs of consumers living in a digital first world and to serve unbanked and LMI populations that have been excluded from the traditional financial system. Since its formation, Varo has pursued opportunities to help the financially coping and vulnerable. Today, over two years into the Covid-19 pandemic and with the specter of rising inflation, the number of consumers who cannot afford a \$400 expense is now 68%¹. We also want to help people build financial security. In the Aspen Institute's 2022 report² "101 Solutions to Inclusive Wealth Building", it states "Nearly 13 million US households have negative net worth. Millions more are low wealth; they do not have the assets or liquidity needed to maintain financial stability and invest in themselves in the present, nor are they on track to accumulate the amount of wealth they will need to have financial security in retirement. Together, these groups represent at least half of all US households. Not having wealth leaves people less able to invest in economic mobility; support family, community, and future generations; care for their health and well-being; and feel a sense of control and dignity in life. For a large share of people and families in America, wealth is out of reach—and without it, financial security is nearly impossible." It is imperative that the modernized CRA not only identify how "internet banks" or "digital banks" – banks without any branches or deposit taking facilities – fit into the proposed CRA framework but also further support and encourage efforts to use technology to meet the needs of LMI communities and underserved populations.

Importance of Accommodating a Bank's Unique Business Model

Varo Bank is strongly supportive of the continued inclusion of strategic plans as an alternative approach for banks with unique business models.

There are a number of banks, including Varo Bank, that do not meet the limited-purpose or wholesale bank designations and also do not offer the limited products included in the proposed rule. Varo's Bank's current business offering does not include any mortgage, small business, or auto loans. Therefore, it would be difficult for banks like Varo Bank to be subjected to a standard CRA evaluation which only counts those loan types.

As part of our de novo process, we worked closely with the OCC and community groups to create our current CRA Strategic Plan, which accounts for our unique business model while still ensuring a high level of engagement with, and commitment to, LMI communities. Our CRA Strategic Plan achieves this goal by setting quantitative benchmarks for:

- Opening savings accounts in LMI areas
- Enrolling LMI individuals in automated savings programs
- Community Development ("CD") Loans and Investments
 - *Our current CD ratio is very similar to the one proposed for limited-purpose and wholesale banks in the new rule. Furthermore, our plan specifies the CD ratio will increase over time and is based on average assets so our CD commitments will increase as the Bank grows as well.*
- Service (Volunteer) Hours

¹ [Yahoo Article May 2022](#)

² [Aspen Institute Report \(2022\)](#)

Given the work we have put into developing the existing CRA Strategic Plan and the long-term resources and relationships needed to achieve the CRA Strategic Plan goals, we strongly agree with the NPR and recommend that existing CRA Strategic Plans should be allowed to remain in place.

Strategic Plan Flexibility

Strategic Plans are a crucial option for banks with unique business models and therefore by design must be flexible to ensure that the intent of CRA and serving LMI communities is achieved while recognizing and accommodating business models that do not fit within the standard CRA framework. We appreciate that the NPR recognizes this need for flexibility, both in the proposed rule text (§_27 Strategic plan section (f), pages 534-536) and the preamble (pages 355-356), which provides the example that *“banks that do not extend home mortgage, small business, small farm, or automobile loans would not be expected to incorporate performance standards and metrics relevant to the Retail Lending Test in their plans.”*

Unfortunately the NPR also presents a significant reduction in flexibility by requiring banks operating under a Strategic Plan to *“have the same assessment area requirements as other banks and...submit plans that include the same performance tests and standards that would otherwise apply unless the bank is substantially engaged in activities outside the scope of these tests”* (page 27). Given these conflicting statements, we have three recommendations to further clarify expectations around CRA Strategic Plans and how they can be appropriately tailored to each bank’s unique business model:

- 1) The revised CRA rule should explicitly state that not all tests (for example, the Retail Lending Test) would be required for banks where they are not applicable;
- 2) All CRA test weightings (for example, 45% for the Retail Lending Test) should be adjustable and allowed to be tailored based on the bank’s business model; and
- 3) The revised CRA rule should allow for customized assessment areas instead of the current proposal requiring that assessment area designations be the same as the rest of the CRA framework.

Consumer Lending

Banks operating under Strategic Plans should have the ability to get credit for all lending activities that are meeting the needs of LMI individuals, including consumer loans. At its core, CRA was created to help improve the financial lives of LMI consumers and ensure they have equitable access to credit. While we are not recommending that consumer loans automatically be included in the Retail Lending Test, we recommend that banks that are primarily consumer lenders are allowed to include the consumer loans in measurement of their CRA obligations under their CRA Strategic Plans.

Community Involvement and Transparency in the Strategic Plan Process

Varo Bank supports the CRA proposal’s increased transparency and process for community involvement in the development and approval of Strategic Plans. We are also supportive of the requirement for banks to justify their election to operate under a CRA Strategic Plan and the

design of their Strategic Plan, i.e. assessment areas, tests, weightings, etc. CRA Strategic Plans are not, and should not be, an avenue for an “easy pass”. We believe the enhanced transparency, increased community involvement, and flexibility to customize a plan that is truly aligned with each bank’s business model will ensure that banks operating under a Strategic Plan will be held to the same or higher CRA standards as other banks.

Community Development Assessment Areas

We are strong supporters of the NPR’s proposal to include community development activities beyond the facilities-based assessment area at the State and Nationwide levels. We feel this proposal provides banks, especially digital banks like Varo Bank, with the flexibility to continue to pursue impactful community development opportunities across the country, while still prioritizing local partnerships and initiatives. This framework also allows banks to get positive consideration for volunteer activities provided by employees outside of their facility-based assessment areas. For example, Varo Bank has a sizable number of employees based in Charlotte, NC and we are actively involved in the community through volunteering activities there. However, Charlotte, NC is not currently part of our CRA assessment area and therefore we don’t get any positive CRA consideration for their efforts. This situation would be changed under the current proposal.

We also support the higher weighting placed on State and Nationwide activities for banks with limited physical footprints. This framework will significantly reduce the number of “CRA hotspots” such as Salt Lake City and allow community development activities to be allocated where they are needed most. In addition, weightings should be something that can be further customized for banks operating under a CRA Strategic Plan based on their business model.

Retail Services and Products Test

Varo Bank is supportive of the digital delivery aspects listed in the proposal and the qualitative reviews of credit and deposit products. The Agencies rightly acknowledge through their LMI responsiveness framework that while access to credit and deposit products is important, the *quality* of those credit and deposit products being provided to LMI communities is also critical. While the qualitative aspects of deposit products and digital delivery is well defined in the proposal, we recommend that the Agencies provide further clarity on how banks will be evaluated on their “*Responsiveness of credit products and programs to the needs of low- and moderate-income individuals, small businesses, and small farms.*” We strongly believe Special Purpose Credit Programs (SPCPs) should be particularly recognized under this test and suggest that the Agencies include topics such as: credit score improvement and cost savings (fees, interest rates, etc.) relative to product alternatives (such as overdraft fees) and industry benchmarks.

We are also supportive of the proposal’s inclusion of a ratio that identifies “*the percentage of responsive deposit accounts compared to total deposit accounts for each year of the evaluation period.*” This quantitative ratio along with a review of marketing and awareness efforts will clearly demonstrate how committed banks are to actually getting their financial inclusion related accounts (i.e. BankOn) to those that need them most.

Retail Lending Assessment Areas (RLAAs)

While we appreciate the agencies moving away from a deposit-based test, we think the retail lending assessment areas still need refinement and should not be tied to an arbitrary loan threshold. We believe that if the agencies plan to include RLAAs in the CRA framework then they should be based on a materiality threshold at the institution level to ensure that areas where a

bank makes a bulk of its loans are included in the analysis. This would eliminate the creation of an unwieldy number of RLAAAs and the compliance burden of tracking them all.

Another alternative approach would be to eliminate RLAAAs and instead focus on a nationwide analysis while also designating specific underserved communities (selected by the bank or regulators) that banks must demonstrate they are serving through their lending. This will ensure that banks can continue to be innovative in increasing access to credit in these underserved communities while not being graded on lending performances in assessment areas that are inconsequential to the bank's overall mission or product roadmap. We believe either of these frameworks will better accomplish the goals of CRA while minimizing the compliance burden on banks.

Expanding the CRA Umbrella to Non-Bank Entities

Just as the industry has evolved through technology – so too have the industry players. Now more than ever, we have non-banks (e.g. credit unions, mortgage lenders, fintechs) providing financial services without being subject to the CRA or having any regulatory obligations to serve or invest in LMI communities. We believe the umbrella of CRA should be expanded to include all entities that provide financial services, particularly the provision of credit. This will significantly expand access to affordable credit for LMI populations and increase the community development loans and investments made in those communities.

While we recognize that this expansion would require a legislative change rather than a regulatory one, the Agencies *do* have the authority to establish CRA obligations for banks that serve as sponsors for specific third-party entities (i.e. fintechs) who provide financial services and the provision of credit. Many of these sponsor banks are not currently assessed on the performance of their third-party relationships or have any material CRA obligations related to those activities. We recommend that the revised CRA rule clarify and expand CRA obligations for these types of banks relative to the financial services provided by their third-party partners.

Community Development Activities

In general, we are supportive of the proposed rule's framework for the Community Development Financing Test and the Community Development Services Test. We believe the combination of quantitative ratios and qualitative impact reviews strikes the right balance to achieve a sufficient quantity of CD activities while ensuring those activities are weighted appropriately based on the impact they have on LMI communities.

Community Development Services Test

Varo Bank's overall mission is focused on financial inclusion, and as part of this mission we devote a significant amount of resources to financial education and financial literacy. There is, unfortunately, a huge need for financial education across this country and across all income levels, not just LMI populations. We are strongly supportive of the proposed rule removing the requirement for banks to prove >50% of the beneficiaries of financial education are LMI in order to get CRA service credit for those financial education related volunteer hours.

By removing this requirement, CRA will now allow banks to get positive consideration for providing financial education targeted towards specific vulnerable populations, such as young adults entering the workforce, the elderly, or persons with disabilities. These populations have specific

financial needs and are underserved from a financial education standpoint but may be difficult to prove they are LMI.

In addition, it is important to recognize the reality that many banks may miss or choose not to promote volunteer activities, especially ones related to financial education, if they don't meet CRA eligibility requirements. We believe the proposed rule appropriately ensures that banks aren't excluding LMI populations or only focusing on Middle- or Upper-income communities, while removing barriers that will ultimately create more volunteering and access to financial education overall.

Community Development Financing Test

Varo Bank strongly supports the proposal to include an approved list of community development activities and a process for requesting an opinion from the regulators on whether or not an activity will qualify. We recommend that regulators include a specific response timeframe for these opinions and ensure a high-level version of these responses are publicly available so others in the industry and examiners can learn from and reference those decisions. This will help ensure consistency across agencies and provide greater clarity and certainty for banks looking to pursue more innovative and nuanced community development activities.

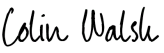
In addition, we recommend that the community development activity definition be expanded to include activities whose express purpose is to address the racial wealth gap. We fully acknowledge that the CRA in its current form is a race-neutral law designed to combat explicitly race-based discriminatory policies and practices. By receiving positive consideration for Community Development activities that address the racial wealth gap, banks can be more proactive and innovative in serving the needs of communities of color without the compliance burden requiring a bank to prove the majority of the beneficiaries are LMI. In addition, this approach allows CRA to incorporate race into the CRA framework without requiring extensive additional data collection that would come into play if race was incorporated into the Retail Lending Test.

Lastly, we are supportive of including climate resiliency and disaster recovery efforts as CRA eligible activities, especially since these events disproportionately impact LMI populations and communities of color. We also commend the proposal's emphasis on and support of CDFIs and MDIs.

Conclusion

Thank you again for providing the opportunity to comment on this proposal. As we mention above, Varo is supportive of the proposal given its role as a digital-only chartered bank. We welcome these changes for this ever-evolving industry and look forward to continuing to work with you as this proposal moves forward. If you have any questions on our comments, please feel free to contact Corey Carlisle, Head of Public Policy, at ccarlisle@varomoney.com or Nick Egger-Bovet, CRA Officer, at nick.egger-bovet@varomoney.com.

Sincerely,

DocuSigned by:

BFFFA7E4451C4DE...

Colin Walsh
Chief Executive Officer