

**Oral Testimony of the Illinois Mortgage Bankers Association  
To the Illinois Department of Financial and Professional Regulation's  
Public Meeting on Proposed Rulemaking  
Under the Illinois Community Reinvestment Act**

March 2, 2023

Good afternoon, my name is Nathan Britsch, and I am a Board Member and Past President of the Illinois Mortgage Bankers Association.

The Illinois Mortgage Bankers Association (IMBA) thanks the Illinois Department of Financial and Professional Regulation (IDFPR) for the opportunity to provide oral testimony on the Proposed Rules under the new Illinois Community Reinvestment Act, 205 ILCS 735 (ILCRA). Although the IMBA membership includes both depositories and non-depositories, in this hearing the IMBA will focus on the concerns of its non-depository independent mortgage bankers (IMBs) with respect to the Proposed Rules.

First, it is important to restate that the IMBA and its membership are committed to principles of Fair Lending and to equal access to credit for all borrowers, and we support the work of the respective government agencies responsible for the enforcement of fair lending laws in identifying and remediating practices such as redlining.

Second, we reiterate our belief that the general CRA construct is in some ways incompatible with the IMBs' business model. Federal CRA law is premised on the view that institutions that benefit from federal deposit insurance and receive deposits from the communities in which they operate have an obligation to reinvest a portion of those deposits in those same communities. In contrast, IMBs do not take deposits from the communities they serve. Rather, IMBs access funds from global financial markets at their own risk and lend those funds in local communities –providing affordable mortgage credit to traditionally underserved communities and borrowers.

Our core concerns and suggestion in this testimony focuses on a few aspects of the ILCRA Proposed Rules and their potential impact on IMBs. The IMBA intends to supplement this testimony with more extensive written comments to the ILCRA Proposed Rules.

Specifically, the IMBA is concerned that the Proposed Rules are not narrowly tailored to apply to the IMB business model. For example, the Lending Test in Section 1055.220(c) prohibits IMBs from including for consideration a loan origination or a loan purchase if another mortgage lender or depository institution claims the same loan for consideration under IL CRA or any other state or Federal CRA. This prohibition ignores the fact that IMBs' business model is to originate and then sell the loans to secondary market investors, which are often other Illinois licensees or depositories. IMBs do not have the financial ability to originate and hold CRA creditable loans in their own portfolios - depositories can. Further, the Proposed Rule does not clarify which entity may claim these CRA credits, adding uncertainty into the market. Our written comments will suggest clarifying this provision to ensure that CRA credit goes to IMBs which locally serve the Illinois customer.

Another example, Section 1055.210 (d) safety and soundness consideration encourages IMBs to (quote) develop and apply flexible lending standards for loans that benefit low-and-moderate-income borrowers.

However, IMBs, by and large, cannot establish underwriting guidelines but rather underwrite to guidelines established by the secondary market, including government and quasi-governmental actors like Federal Housing Administration, Veteran's Administration, Illinois Housing Development Authority, and Fannie Mae and Freddie Mac, each of which designs loan programs to meet the needs of low to moderate income borrowers. IMBs are typically MORE active in these spaces than depository institutions, yet nothing in the regulations credits IMBs for participation in such programs expressly. We will therefore be suggesting in our written comments that this provision be reframed to instead recognize that IMBs do not design their own loan programs but should be given credit for their participation in loan programs that are consistent with the CRA's goals. .

For example, Section 1055.220 (a)(1) of the Lending Test – states that (quote) The lending test evaluates a mortgage lender's record of helping to meet the mortgage credit needs of the State through its lending activities by considering a mortgage lender's home mortgage and community development lending. This statement should instead expressly state that the test will consider the extent to which IMBs participate in government loans (FHA, VA, USDA loans) and non-for-profit down payment assistances loans, and other government-backed or sponsored loan products that cater primarily for low-and-moderate-income borrowers. Providing clear and objective examples for compliance, with products that are available to IMBs in the marketplace, would help IMBs to focus and strengthen their lending performance to meet the ILCRA requirements.

Those over-arching concerns will be addressed in more detail in our written comments. We also have some more specific concerns, such as the proposed frequency of examination of Section 1055.450. This section proposes a very aggressive frequency for CRA examinations - once every three years for IMBs, with a mere 100 loan threshold, and scored as "outstanding" or "satisfactory" - and more frequent for lower ratings. These examinations will be conducted in addition to regular licensing examinations and are excessive. Examination costs are not insignificant and will burden IMBs the more often they arise. The proposed regulations already permit the Secretary to initiate a CRA examination for sufficient cause, at any time, and without a frequency limitation. Our comments will suggest preserving the discretion of the Secretary to initiate an investigation at any time while lengthening the typical time between examinations for lenders whose last CRA exam was favorable.

Lastly, under 1055.400 (a) Data Collection and Reporting, the Proposed Rules require IMBs to (quote) collect and report for examination purposes additional data fields beyond what is required under HMDA. However, the Proposed Rule provides no specificity. IMBs should know what these additional data fields will be and how they will be used before moving forward with a final rule to ensure that IMBs are able to comply with such requests.

In closing, the IMBA supports the IDFPR's mission of affordable and equitable lending in Illinois. The IMBA, through its Affordable Housing, Risk, and Legislative committees look forward to continued participation and commentary on these upcoming rules. The IMBA hopes its testimony here, along with its anticipated written commentary, will promote a balanced approach to ILCRA.

Thank you for the opportunity to provide our testimony.