October 4, 2024

RE: Parent Companies of Industrial Banks and Industrial Loan Companies, RIN 3064–AF88

To Whom it May Concern:

The National Community Reinvestment Coalition (NCRC) appreciates the opportunity to comment on proposed changes to the FDIC regulation of parent companies of industrial banks and the rigor of the application process for industrial banks.

NCRC is a network of more than 700 community-based organizations dedicated to creating a nation that not only promises but delivers opportunities for all Americans to build wealth and attain a high quality of life. We work with community leaders and policymakers to advance solutions and build the will to solve America's persistent racial and socio-economic wealth, income, and opportunity divides, and to make a Just Economy a national priority and a local reality.

FDIC appropriately responds to safety and soundness concerns by requiring more applications

A safe and sound banking system that responds to the convenience and needs of the community is of paramount importance to NCRC's mission. Industrial banks and loan companies have had spotty records concerning safety and soundness. The industrial bank sector has a significant presence in the marketplace, controlling over $232 billion in assets.[1] The FDIC documents that 21 industrial banks and loan companies have failed from 1985 through 2003. Most of these (19) operated as finance companies.[2] Finance companies typically fund their retail lending activities with non-deposit sources of capital; the industrial banks with a finance company model may have had relatively low levels of deposits. As a result, they are typically less regulated than regular banks and were "newcomers to federal supervision" according to the FDIC.[3] Moreover, the industrial bank structure has resulted in less regulation since the parent companies of industrial banks are not subject to the consolidated supervision of the Federal Reserve System.

In this context of safety and soundness concerns, NCRC is strongly supportive of the overall purpose of the FDIC's proposed rule that would require more applications to the FDIC and more FDIC oversight of industrial banks and their parent companies. The FDIC proposes to require applications in the cases when the control of parent companies of industrial banks change and

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[1] Federal Deposit Insurance Corporation (FDIC), *Parent Companies of Industrial Banks and Industrial Loan Companies*, Notice of Proposed Rulemaking, RIN 3064–AF88, Federal Register, Vol. 89, No. 155, Monday, August 12, 2024, p. 65558.
[2] Mindy West, Senior Examination Specialist, *The FDIC's Supervision of Industrial Loan Companies: A Historical Perspective,* Last Updated: July 24, 2023, https://www.fdic.gov/bank-examinations/fdics-supervision-industrial-loan-companies-historical-perspective
[3] Ibid.

when an industrial bank would become a subsidiary of a parent company not subject to Federal Reserve oversight.[4] These proposed changes appropriately respond to concerns that parent companies that are not in the business of lending could nevertheless exercise undue influence over the management of industrial banks.

FDIC proposes convenience and needs considerations that must be finalized

NCRC also appreciates the attention the FDIC has devoted to the convenience and needs factor in this rulemaking. If the application review is rigorous for the convenience and needs factor, the subsequent CRA performance of the new industrial banks should be heightened.

In particular, the FDIC is concerned that an industrial bank that proposes to narrowly focus on the customers of the parent company as opposed to the residents of the broader community and their needs would not be adhering to the convenience and needs standard.[5] NCRC agrees strongly with this proposition. There could be situations in which retail lending capacity is limited with relatively few loan officers or other employees that make retail loans. In these cases, however, an industrial bank should be expected to offer a substantial amount of community development activities ranging from community development financing to community development services such as housing or small business counseling that could be conducted in conjunction with community-based organizations. In other situations, the retail lending capacity of the proposed industrial bank could be more substantial. In these circumstances, the application should indicate a broader commitment to serve the community at large. In addition, this type of industrial bank should also be expected to offer a healthy amount of community development activities.

The convenience and needs obligations must be commensurate with the capacity of the proposed industrial bank or industrial loan corporation. The only way for the public to be able to judge capacity is if the applicant clearly describes capacity in its application including the size of the retail lending operation, the number and breadth of retail branches, and total assets. After describing its proposed capacity, the applicant should then discuss how it will use its capacity to respond to convenience and needs for loans, investments, and services. Often community-based organizations confront applications that do not provide sufficient details describing reinvestment activities and capacity for undertaking those activities. The FDIC should also address the level of detail in applications with this proposed rulemaking.

The FDIC recognizes that there is potential for industrial banks to inflict harm on the community.[6] This is possible through the introduction of high-cost lending products that are not affordable and sustainable for customers. Sometimes, lenders like industrial banks with restricted geographic footprints may partner with unscrupulous non-bank lenders that peddle abusive products over a wide area. The FDIC must safeguard against these possibilities by requiring

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[4] FDIC, Proposed Rule, 65559.
[5] FDIC, Proposed Rule, 65562.
[6] FDIC, Proposed Rule, 65562.

sufficient detail in applications describing the quality and safety and soundness of retail lending and deposit products.

The FDIC indicates that it may consider commitments from applicants regarding convenience and needs.[7] In light of the recent FDIC merger policy statement,[8] NCRC encourages the FDIC to indicate in its final rule that one type of commitment could be a community benefit agreement negotiated with community organizations committing the institution to offer a sizable amount of safe and sound products to the broader community. Many industrial banks select the strategic plan option for their CRA examination. CBAs are well suited as a foundation for strategic plans in part because CBAs help the new industrial banks establish partnerships with community-based organizations for engaging in community development activities.[9]

NCRC also appreciates the FDIC's suggestion that the unique nature of industrial banks could require public hearings to determine if and how they can respond to the convenience and needs of communities. NCRC believes that hearings should be frequent occurrences for industrial banks since there are not many applications for these types of banks and since they usually pose novel and complex issues that benefit from the expertise and testimony of community stakeholders.

Finally, NCRC believes that industrial bank applications should be published on the FDIC's website with an opportunity to request a copy of the application, which should be provided before the public comment period closes.

Conclusion

NCRC appreciates the focus of the FDIC in bolstering the safety and soundness and convenience and needs standards of industrial banks. We are supportive of the proposed rule but request enhancements including requiring sufficient details in the convenience and needs sections of applications and recognition of community benefit agreements as one way to demonstrate a commitment to convenience and needs.

If you have any questions please contact me at jvantol@ncrc.org or Josh Silver, Senior Fellow, at jsilver97@gmail.com.

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[7] FDIC, Proposed Rule, 65562.
[8] FDIC, *Final Statement of Policy on Bank Merger Transactions*, RIN 3064-ZA31, https://www.fdic.gov/system/files/2024-09/final-statement-of-policy-on-bank-merger-transactions.pdf
[9] Examples of recent strategic plans include Medalion Bank, https://crapes.fdic.gov/publish/2023/57449_231127.PDF, which received an Outstanding rating and BMW Bank of North America, https://crapes.fdic.gov/publish/2024/35141_240801.PDF, which received a Needs to Improve rating because it did not meet its community development service goals. CBAs and partnerships with community-based organizations may have helped BMW avoid failing its CRA exam.

Sincerely,

Jesse Van Tol
President and CEO
National Community Reinvestment Coalition