California Reinvestment Coalition

THE GREENLINING INSTITUTE

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Re: *Supplemental comments from California community groups concerning the applications by TriCo Bancshares and Tri Counties Bank to acquire Valley Republic Bancorp and Valley Republic Bank*

Dear Applications Manager Astrada and Senior Analyst Deringer,

We respectfully submit this supplemental comment letter concerning the application by TriCo Bancshares and Tri Counties Bank to acquire Valley Republic Bancorp and Valley Republic Bank. These supplemental comments are submitted in light of the letter recently received from Tri Counties Bank in response to our initial comments, which were endorsed by 19 organizations.[1]

As with all merger applications, we believe that applicants must demonstrate that there will be a clear public benefit from the merger, that convenience and needs of impacted communities will be met, and that community credit needs have been adequately met by the banks. We again urge Tri Counties Bank to enhance its CRA Plan to address community needs identified, and if not, that the regulators condition

[1] The groups endorsing the initial comment letter include: Asian, Inc., California Capital Financial Development Corporation, California Coalition for Rural Housing, California Community Economic Development Association, California Reinvestment Coalition, California Rural Legal Assistance, Central Valley Urban Institute, Community Housing Opportunities Corporation, Fresno Metro Black Chamber of Commerce, Fresno Native American and Business Development Center, Jakara Movement, Jefferson Economic Development Institute, Sacramento Housing Alliance, San Francisco African American Chamber of Commerce, San Joaquin Valley Regional Broadband Consortia, San Joaquin Valley Rural Development Center, Stanislaus Equity Partners CDC, The Greenlining Institute , and The Observer Media Group. Note that five of the above listed organizations endorsed the letter subsequent to our submission of the initial letter, as we waited until the end of the comment period to see if the Bank would respond to concerns raised.

any merger approval on the Bank developing a more transparent and stronger CRA Plan that ensure Tri Counties will better help meet community credit needs.

The Greenlining Institute and the California Reinvestment Coalition

Founded in 1993, The Greenlining Institute works toward a future when communities of color can build wealth, live in healthy places filled with economic opportunity, and are ready to meet the challenges posed by climate change. Our multifaceted advocacy efforts address the root causes of racial, economic, and environmental inequities to meaningfully transform the material conditions of communities of color in California and across the nation.

The California Reinvestment Coalition builds an inclusive and fair economy that meets the needs of communities of color and low-income communities by ensuring that banks and other corporations invest and conduct business in our communities in a just and equitable manner. We envision a future in which people of color and low-income people live and participate fully and equally in financially healthy and stable communities without fear of displacement, and have the tools necessary to build household and community wealth.

Acknowledgement and appreciation of Tri Counties Bank

Despite our concerns, we again acknowledge and thank Tri Counties Bank for agreeing to meet with members of the Greenlining Institute and the California Reinvestment Coalition, for providing certain information to us in advance of the meeting, for sharing with us its CRA Plan, and for responding to our initial comments opposing the merger. We also acknowledge the good work the Bank has done to support fire-ravaged communities, as well as other important community efforts and initiatives, including CRC's Resilience Fund.[2] We also understand the Bank may already be working to implement its new CRA Plan, which we applaud.

Concerns

At the same time, we were disappointed by the Bank's inability to respond to our data request, which we sent to a number of large banks in California on June 9, 2021. In late July, it was confirmed that Tri Counties had certain staffing changes in the CRA department and we resent the data request on July 26, 2021, after having mentioned to Bank staff that it was forthcoming, but before the proposed Valley Republic Bank merger was announced,[3] if barely. We understood that the Bank was working on a response, but ultimately it was not able to respond to our data request, though it did provide us other information. Perhaps the challenge in responding to such community requests reflects the realities of a too-short merger process timeline. We support reforms to CRA and the bank application process to permit more time for dialogue between community groups and financial institutions. We were also disappointed that the Bank was not able to respond in writing to concerns and community needs raised during our meeting with organizational member groups. In addition, we trust, as the Bank has indicated, that the Bank has not and will not take adverse action against nonprofit organizations that have exercised their right to comment on the current applications.

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[2] https://calreinvest.org/press-release/crc-san-francisco-foundation-banks-launch-resilience-fund/

[3] The merger was announced the next day, on July 27, 2021, see: https://www.tcbk.com/assets/files/bUAOeV28/TCBK-VLLX-Merger-Press-Release-Final.pdf

Overdraft Fees

We noted previously our concern that the Bank is harming consumers through the imposition of high overdraft fees. Overdraft fees are pernicious for consumers, resulting in large fees for often-small purchases. Overdraft fees are disproportionately borne by vulnerable consumers, and disproportionately BIPOC customers. When these consumers incur repeated overdraft fees, they may find themselves not only suffering financially, but also see their accounts closed and find themselves excluded from the financial mainstream.[4]

The San Francisco Office of Financial Empowerment (OFE) in its review and analysis of ChexSystems found that the majority of records result from repeated overdrafts or other unwitting or good faith behavior.[5] OFE's research found numerous clients who had their accounts closed due to repeated overdrafts or because they were victims of fraud or even because of bank error.[6] OFE determined that banks' own practices and account structures can contribute to the prevalence of repeated overdrafts and involuntary account closures. Closures triggered by overdraft are often the result of outstanding unpaid debt that consists mostly of fees, which dwarf the actual amounts withdrawn and represent profit rather than loss recovery for banks.[7]

We are concerned that overdraft fees are borne disproportionately by vulnerable consumers and BIPOC account holders. A recently released report on overdraft notes that "because financial services charges, such as overdraft fees, are disproportionately borne by Black and Latinx consumers, high institutional reliance on overdraft fees risks undermining the commitments many institutions have made to racial equity in recent months."[8] Consumers expect their financial institutions to the help them improve their financial health.[9] While a Consumer Bankers Association survey found that just over 40% of consumers surveyed indicated they wanted a particular transaction to go through, 55% either reported an overdraft as a mistake or as incurred while hoping a recent deposit would clear.[10] The report goes on to discuss consumer needs, overdraft reform proposals, and a framework for banks to think about how best to serve their customers.

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[4] For more on overdraft fees and their impacts on consumers, as well as a methodology for comparing overdraft impacts across financial institutions, see Peter Smith, Shezal Babar, and Rebecca Borné, "OVERDRAFT FEES: Banks Must Stop Gouging Consumers, Center for Responsible Lending, June 2020, available at: https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-overdraft-covid19-jun2019.pdf

[5] San Francisco Office of Financial Empowerment, "BLACKLISTED: How ChexSystems Contributes to Systemic Financial Exclusion," June 2021, available at: https://sfgov.org/ofe/sites/default/files/2021-06/Blacklisted-How%20ChexSystems%20Contributes%20to%20Systematic%20Financial%20Exclusions.pdf

[6] Id.

[7] Id., citing Consumer Financial Protection Bureau (CFPB), "CFPB Study of Overdraft Programs: A white paper of initial data findings," June 2013, available at: https://files.consumerfinance.gov/f/201306_cfpb_whitepaper_overdraft-practices.pdf.

[8] Mark Feldman, David Silberman, Amelia Josephson, "Reexamining Overdraft Programs: A Guide for Financial Institutions," Financial Health Network, available at: https://fhn-finhealthnetwork-assets.s3.amazonaws.com/uploads/2021/09/Reexamining-Overdraft-Programs-Report-Final.pdf (citing: Stephen Arves, Necati Celik, Hannah Gdalman, Elaine Golden, & Meghan Greene, "The FinHealth Spend Report 2021," Financial Health Network, June 2021).

[9] Id., at p. 4.

[10] Id., at p. 4.

To the extent the Tri Counties' overdraft policies and practices are more onerous and far-reaching than those employed by Valley Republic Bank, then this merger would clearly undermine the convenience and needs of Kern County area consumers and communities by subjecting increasing numbers of consumers and small businesses to harsher overdraft fees. This is unfair and potentially harmful to Valley Republic customers. In fact, the White House recently issued a statement noting "Excessive consolidation raises costs for consumers, restricts credit for small businesses, and harms low-income communities."[11]

In its response to our initial comments, the Bank seeks clarification on our assessments. We believe that the Bank charges overdraft fees in excess of the industry average, measured as a percentage of non-interest income. According to the Center for Responsible Lending, which utilizes this methodology, for all banks with at least $1 billion in assets that provided data to regulators, 5.0% of noninterest income came from such fees in 2019.[12] But Tri Counties Bank derived 12.27% of non-interest income from such fees, based on Consolidated Report figures showing $6,564,000 in overdraft/NSF fees and $53,481,000 in non-interest income. Similarly, we believe that in 2020, Tri Counties exceeded the industry average with 8.68% of Bank non-interest income ($55,290,000) from fees ($4,797,000), while the industry aggregate was only 3.6%.[13] As such, we believe Tri Counties overdraft fees as a percentage of non-interest income far exceed that for industry by this measure for the past 2 years.[14]

When we raised this issue with the Bank, it did not seem to dispute these numbers, but suggested that the Bank should be considered instead by looking at overdraft fees in relation to deposit accounts. We do not know the industry benchmark using this analysis and the Bank provides no data to support its view that this is a better measure or even that it performs well under this methodology. We do compare Tri Counties to a similarly sized bank that we had also criticized for high overdraft fees. In comparing the two banks, we believe that Tri Counties not only collected much more in overdraft fees over the last two years, in absolute terms and as a percentage of non-interest income, but that Tri Counties also charged higher overdraft fees in relation to deposit accounts. If the Bank has a different analysis suggesting its overdraft fees are not higher than the industry, we look forward to seeing it.

In the last few months, a number of banks have decided to change their overdraft policies or move away from charging overdraft fees altogether.[15] The recent changes range from eliminating overdraft fees to

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[11] Jon Prior and Brendan Pedersen, "Biden calls for tougher reviews of bank mergers, urges data portability," American Banker, July 09, 2021.

[12] Laura Alix, "Two more regional banks are rethinking overdraft fees," American Banker, June 15, 2021.

[13] Industry aggregate figures for overdraft fees as a percentage of non-interest income for 2019 and 2020 are derived from analysis and methodology employed by the Center for Responsible Lending.

[14] In a recent article, the American Banker used a similar methodology in analyzing disclosures by more than 500 banks and found that average overdraft fees as a percentage of non-interest income was 2.78% for banks with over $10 Billion in assets, and 4.49% for banks with $10 Billion or less in assets. Using these numbers, Tri Counties still has a higher reliance on overdraft fees than "smaller banks" on average, even as Tri Counties positions itself to become a bank approaching $10 Billion in assets. See, Polo Rocha, "Small banks face bigger threat to overdraft fees this time around," American Banker, July 27, 2021.

[15] Allissa Kline, Jon Pryor, Laura Alix, "Why more banks are weaning themselves off overdraft fees," American Banker, June 3, 2021, noting that Ally Bank will permanently stop charging overdraft fees, and that Huntington

introducing new products that will offer less expensive options to customers[16] and likely less revenue for the banks.[17]

As we understand it, the Bank charges $34 for overdrafts of over $5, up to 4 times daily. This is excessive, especially if these charges were levied during the pandemic when families have been struggling financially, emotionally and physically. Such a policy can leave consumers owing $136 per day for overdraft fees.[18]

In its response to our comments, the Bank notes that customers can opt out of overdraft and suggests that this is a customer choice. We do question how many consumers would choose to be charged between $34 and $136 for the privilege of having certain payments covered. This raises the question of how many Tri Counties Bank customers "opt in" to overdraft, and how does the Bank frame this choice for customers. We are concerned because in years past, CRC and allies conducted mystery shopping of various financial institution consumer accounts and found bank explanations of overdraft policies confusing at best, and misleading at worst. The Bank should end overdraft charges.

We urge the Federal Reserve to issue Additional Information requests to Tri Counties Bank to clarify:

- What percentage and number of Bank customers opt into overdraft coverage?
- What percentage and number of Bank overdraft charges are tied to debit card and ATM withdrawal transactions that are easily declined by the Bank and with negligible costs?
- How does the Bank explain overdraft to its customers? The Bank should provide sample disclosures and marketing materials.
- How many Bank customers have opted for the alternatives to overdraft protection?
- How are these alternatives to overdraft marketed? The Bank should provide sample disclosures and marketing materials.
- How many accounts did the Bank close, if any, due to excessive overdraft charges imposed by the Bank against a given consumer, or consumers?

Bank launched a line of credit for emergency expenses that figures to erode its overdraft fee revenue. PNC Financial Services Group and Cullen/Frost Bankers had announced changes earlier this year that are expected to reduce their haul from overdraft fees.

[16] Laura Alix, "Citizens joins list of banks helping customers avoid overdraft fees," American Banker, October 7, 2021 (reporting that "Citizens Financial Group has launched a feature designed to help customers avoid overdraft fees, joining a growing roster of banks that are weaning themselves from that revenue stream. Citizens Peace of Mind automatically reverses overdraft fees if customers deposit or transfer enough money to bring their accounts to a positive balance by the end of the next business day. Citizens said Thursday that the feature was added to all of its checking accounts as of Oct. 1. In addition, the $185 billion-asset bank plans to roll out a new checking account specifically intended to meet affordability standards for low-income consumers, Citizens said. That product, which the Providence, Rhode Island, company expects to debut in the first quarter of 2022, will not charge overdraft fees.").

[17] Laura Alix, Polo Rocha, Jon Prior, Allissa Kline, "These 10 banks are rethinking overdraft fees. Here's why and how," American Banker, July 7, 2021.

[18] See https://www.tcbk.com/personal/services/overdraft-services

Tri Counties Bank should cease assessing overdraft fees, or at the least, substantially modify such policies, and move to ensure that all account products fully align with Bank On standards.[19]

We note also that the Bank's assessment of overdraft fees on its own customers far exceeded the amount of funds it has contributed and plans to contribute to its communities. In fact, the lower 2020 figure for Tri Counties overdraft ($4,797,000) is 4x more than the proposed annual contributions budget in Tri Counties new CRA Plan. It is hard to see how this is helping to meet community credit needs, serving community convenience and needs, or providing a public benefit, as required.

Mortgages

As noted in our initial comment letter, we believe the Bank is doing a good job lending to low and moderate-income borrowers. We think the picture is less clear with regard to lending low and moderate-income communities. We reiterate our concern that the lending is lagging with regard to lending to borrowers and neighborhoods of color. In its response to our initial letter, the Bank disagrees with this assessment and asserts that it is not deficient in this area. We do not know how to reconcile this difference of view. We will provide our analysis below and invite the Bank to do the same. We urge the regulators to investigate any fair housing concerns and to condition any approval of this merger on the bank taking concrete steps and making concrete commitments to lend to underserved groups and neighborhoods.

For the full year 2020, the Bank reported 3,013 applications and 1,682 originations on single-family homes (1-4 unit properties) in the 29 counties that comprised its CRA assessment areas[20] in the state of California[21] during its last exam cycle. We focus, as is our custom, on loan originations as opposed to loan purchases:

- The Bank did exceed its peers[22] with regard to originations to LMI borrowers, with 20.3% of the Bank's originations going to LMI borrowers, compared to only 17.1% for peers;
- The Bank did however lag its peers for originations to LMI tracts with 16.6% of its originations in such neighborhoods compared to 19.9% for peers.
- We acknowledge the Bank for exceeding its peers with regard to originations to Native American and Hawaiian borrowers with .4% of originations, compared to .2% and .3% for peers, respectively, though the loan totals are small (7 Tri Counties Bank loans to Native American borrowers and 6 to Hawaiian borrowers).
- But disturbingly, the Bank significantly outpaces peers in lending to white borrowers and significantly underperforms peers in lending to other borrowers and neighborhoods:
    - 74.6% of the Bank's loans were to white borrowers, compared to 43.7% for peers;
    - .4% of the Bank's loans were to African American borrowers compared to 2.5% for peers, a ratio of more than 1:6;

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[19] BankOn standards are available at: https://2wvkof1mfraz2etgea1p8kiy-wpengine.netdna-ssl.com/wp-content/uploads/2020/10/Bank-On-National-Account-Standards-2021-2022.pdf

[20] As found on p. 7 of the Bank's most recent CRA Performance Evaluation, at: https://www7.fdic.gov/CRAPES/2021/21943_210119.PDF

[21] HMDA analysis derived from LendingPatterns.Com., a product of ComplianceTech.

[22] In order to compare Tri Counties Bank to similarly sized lenders, we compare the Bank with a peer group that excludes lenders that do less than half, or more than twice the lending of Tri Counties, for lending in the Bank's 29 CRA Assessment Areas counties.

- 9.4% of the Bank's loans were to Latine borrowers compared to 18.3% for peers, a ratio of nearly 1:2;
- 3.4% of the Bank's loans were to Asian American borrowers compared to 16.1% for peers, a ratio of over 1:4;
- 19.3% of Bank loans were originated in neighborhoods of color (where over 50% of tracts are composed of people of color) compared to 48.4% for peers, a ratio of 1:2.5

Using the LendingPatterns software to explore redlining risks flags statistically significant disparities[23] for Tri Counties Bank applications taken from: a) majority Latine; b) majority Asian American; c) majority minority; and c) majority African American/Latine neighborhoods.

Looking at bank originations, statistically significant disparities also exist for lending to: a) majority Latine; b) majority Asian American; c) majority minority; and c) majority African American/Latine neighborhoods.

Looking at Bank approvals, statistically significant disparities exist for approvals to: a) majority Latine; b) majority minority; and c) majority African American/Latine neighborhoods.

Finally, looking at Bank loan denials, statistically significant disparities exist for denials to: a) majority Asian American; b) majority minority; and c) majority African American/Latine neighborhoods.

We assert that the data show in 2020 the Bank clearly underperformed the industry in its lending to borrowers and communities of color, and also with regard to LMI tracts, though less so. These numbers raise red flags with regards the Bank's compliance with the Fair Housing Act and with the Community Reinvestment Act.

To address any disparities, we urge the Bank to commit to:

- Set goals to increase lending to borrowers and neighborhoods of color annually;
- Develop a Special Purpose Credit Program to target homeownership opportunities to BIPOC households. We believe that all banks should develop one or more Special Purpose Credit Programs to begin to address the history of exclusion of BIPOC consumers and communities from mainstream banking and finance;
- Develop, market and offer an FHA loan product. We believe 100% of Tri Counties single-family loan originations in the 29 county area rely on conventional financing. The Bank's peers saw 8.4% of loan originations coming through their FHA channel. FHA lending does appear to provide greater access for certain borrowers of color, and developing an FHA loan product may help the Bank better provide equal access to all borrowers and communities. One important caveat is that we believe that all lenders offering conventional and FHA financing must ensure that their borrowers are able to get the best priced product for which they qualify (in other words, they must "refer up" any FHA applicants to conventional loans for which they qualify). To do otherwise, presents its own serious fair housing concerns. We urge Tri Counties Bank to offer

[23] Difference between the lender's market share in majority White tracts and the lender's market share in tracts that are not majority White (e.g. Black, Hispanic, Asian, etc.). Confidence level is 95%. LendingPatterns.Com., a product of ComplianceTech.

an FHA loan product and to guarantee their borrowers the best-priced product for which they qualify.

- Work with housing counseling agencies to develop a portfolio product that meets the needs of BIPOC homebuyers and home loan seekers, and partner with such groups to reach borrowers that the Bank may be missing.
- The Bank is to be commended for offering loans for manufactured housing as this helps meet a community need. Perhaps expanding this offering is another way to help address any disparities in lending.

Native American outreach

We urge the Bank to develop and conduct targeted outreach to tribal lands and to Native American communities. It does not appear from our prior conversations or the Bank's recent response that it currently does so or has plans to do so.

We think this represents a lost opportunity for the Bank and for Native American communities. We believe the Bank's footprint makes its access, lending and services to tribal land and Native American communities particularly relevant.[24] While it is true that by one measure, the bank is doing a fair job serving Native American home loan borrowers by originating a higher percentage of mortgages to Native American borrowers than its peers, the number of such loans is only 7, and there is no public data on how else the Bank is or is not serving Native American consumers. Further, of the 34 California counties that are home to Tribal Nations, most (18)[25] are in Tri Counties Bank CRA assessment areas, and these counties represent the majority of counties in Tri Counties CRA assessment areas. These communities should be able to expect that the Bank, and other banks, will providing services and outreach there. It is not clear if this is occurring. The Bank should strive to reach tribal lands.

Leadership at two Native American Collaboratives in California confirm that "Indian Country is underserved by financial institutions," and support the following service considerations by banks to improve access to capital in Indian Country, especially in Kern, Fresno, Tulare and Kings Counties[26]:

- Create and promote financial services that are more available to Native Americans to grow their businesses, tribal entities and communities.
- Promote micro-loans, outreach financial education, and hiring bank staff of color, especially employees that are sensitive to Indian culture and way of life.
- Provide information/transparency to track data on business and housing loans provided to Native Americans in LMI census tracts.
- Market financial services and outreach to rural communities.
- If we cannot prevent further branch closures, develop a plan for bank branches that are closing in our underserved communities.

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[24] Four of the top ten California counties where Native American residents live are in the Bank's assessment area, see https://www.courts.ca.gov/documents/NativeAmerResUpdate.pdf

[25] See https://www.etr.org/ccap/tribal-nations-in-california/county-list-of-tribal-nations/

[26] Owens Valley serves TANF communities from Stockton to San Luis Obispo with 32 career counselors and 7 service centers in the Central Valley, serving 33 tribes in the Central Valley. Outreach to Native American Collaboratives was conducted and information shared by Fresno Native American Business Development Center, a project of Asian, Inc.

- Create educational support for Indian youth seeking higher education and entrepreneurship in Indian Country.
- Create bank employee volunteer/incentive programs to help Native American/Alaskan Native and Hawaiian Native businesses grow.

The regulators should determine how many tribal lands are within the Bank's CRA assessment areas, and whether and how the Bank is serving the credit needs of those communities.

Broadband
In its response, the Bank expresses an interest in supporting broadband efforts, but does not commit to any particular course of action.

In the US, 6% of Americans, or more than 20 million people, do not have access to high speed Wi-Fi. Many of them live in rural areas. The World Economic Forum reported that this number is likely understated and that 19 million unconnected households are in rural areas.[27] The Federal Reserve Bank of Kansas found that there are two reasons for the lack of adoption of financial services - financial exclusion and digital exclusion.[28] Without widespread access and connection to high-speed Internet, technology will never be the great equalizer. Instead, it will continue to widen the divide and underscore the systemic racial barriers that permeate multiple overlapping systems.

While a record percentage of California households are connected to the Internet, 15% of households in the state, nearly 2 million people, are digitally disadvantaged. Approximately 1.25 million, or roughly 9.6%, are unconnected, and approximately 730,000, or roughly 5.6%, are under-connected. The digital divide remains especially challenging for a significant number of low-income and Latine households, seniors, and people with disabilities. With so many activities having gone digital during the pandemic, such as online banking, the disadvantage only has grown more acute. Affordability is the main reason that keeps households from connecting to the Internet, with digital literacy and the lack of appropriate computing devices also being relevant factors.[29]

The Biden Administration has proposed closing the digital divide by including a $65 dollar investment to ensure that, "Every American has access to reliable high-speed Internet," and by lowering the cost of Internet for low-income households by requiring providers to offer low cost, affordable plans.[30] This public investment of taxpayer dollars seeks to end "digital redlining" while also growing the customer base for privately owned Internet providers. Our Governor and Legislature have also committed significant resources to addressing the broadband issue.[31]

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[27] https://www.weforum.org/agenda/2020/04/coronavirus-covid-19-pandemic-digital-divide-internet-data-broadband-mobbile/
[28] forbes.com/advisor/banking/digital-divide-and-its-impact-on-banking/
[29] https://www.cetfund.org/action-and-results/statewide-surveys/2021-2/
[30] https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/28/fact-sheet-historic-bipartisan-infrastructure-deal/
[31] https://www.gov.ca.gov/2021/07/20/governor-newsom-signs-historic-broadband-legislation-to-help-bridge-digital-divide/

We believe that banks and other financial institutions should become part of the solution here. Specifically, banks must support efforts to increase infrastructure access to high-speed broadband, increase access to devices, and increase access to digital literacy training on a wide scale. The Tri County/Valley Republic Bank transaction represents a large bank merger involving rural banks that are much more likely to have CRA assessment areas including underserved Native American communities and tribal lands, as well as rural communities with insufficient broadband access. We urge Tri Counties Bank to address these needs in a strong CRA Plan, and for regulators to condition any merger approvals on the development of such strong and transparent plans. We understand that Citizens Business Bank may be addressing broadband needs in similar communities through investments in infrastructure, devices, and digital literacy training. Tri Counties can and should help address this need.

MF Lending

One of the questions in our data request that Tri Counties did not respond to, was whether the Bank has policies in place to mitigate any displacement financing pressures that exist in its communities.

Our organizations are concerned that financial institutions may be getting CRA credit for community development loans on multifamily residential properties where rents are “affordable” to low- and moderate-income (LMI) households at the time of loan origination, but where such borrowers may foreseeably be likely to harass, raise rents on, or evict tenants. We do not know that this is an issue with Tri Counties Bank, but we are raising it with banks and regulators. We urge Tri Counties to ensure that it has policies in place to prevent the financing of displacement, consistent with CRC’s Anti-Displacement Code of Conduct. [32] We further urge the FDIC to ensure that no community development loan credit has been given for loans that have resulted in harassment or displacement of the very residents CRA was meant to benefit.

In its investor presentation regarding this proposed merger, Tri Counties notes in Select Market Highlights, that Bakersfield “saw strong demand for housing, evidenced by 5-year record in housing permits and 16-year record in median housing price.” Similarly, Fresno saw an “over 39% increase in residential rent prices since 2017, including a 12% increase since the pandemic (compared to decreases in other major metropolitan markets in California), in addition to the area seeing multi-billion dollar investments anchored by the California High Speed Rail project.[33] These dynamics will continue to put pressure on low and moderate-income tenants in the bank’s assessment areas.

The issue of displacement is additionally relevant and timely as the federal eviction moratorium ended on October 1, and there will be tremendous pressure on, and housing insecurity facing, tenants living under landlords who may wish to take advantage of a heated real estate market to pressure tenants to leave so that the owners can rent out units at much higher rents. Even with the moratoria that were supposedly in place, research shows that from July 2020 through March 2021, sheriff’s departments in

[32] CRC’s Anti-Displacement Code of Conduct, endorsed by over 100 organizations, can be found here: https://calreinvest.org/about/code-of-conduct/

[33] https://www.tcbk.com/assets/files/4SfOregI/TCBK-VLLX-Merger-Presentation-2021.pdf p. 7.

56 of California's 58 counties across the state enforced lockouts of at least 7,677 households. Residential evictions increased dramatically in the first three months of 2021.[34]

This is why we have called for financial institutions to enhance their due diligence procedures to ensure they are not lending to problematic landlords subject to litigation and complaints, that their borrowers fully understand their obligations to honor state and local tenant protections laws, that banks do not underwrite to higher rents than what tenants are currently paying, that banks follow up with their borrowers and tenants to ensure there are no problems at their properties post-origination, and that banks intervene where problems arise.

Investments

We applaud the Bank for making impactful community development investments. But we are concerned if a significant number of the Bank's investments are for mortgage backed securities, as the Bank's CRA Performance Evaluation suggests might be the case. We have for years argued against banks receiving CRA credit for MBS investments as they provide minimal value add and have low impact on communities. Instead, we urge the Bank to make more impactful investments, such as equity, equity-equivalent or LIHTC investments, or purchase mortgages or MBS comprised only of mortgages from mission-driven nonprofit lenders. Perhaps the Bank is moving in this direction.

Diversity

As we do with all institutions, we urge the Bank to make public its board and management diversity data, and to develop a plan to increase Board and management diversity, as well as supplier diversity. As Acting Comptroller Hsu remarked recently at a Women in Housing & Finance meeting, "Ultimately, we need to shift cultural expectations so that diversity and inclusion are the norm, not some distant aspiration. For the financial sector, this starts with improving transparency about the diversity of large bank boards of directors and executive leadership."[35]

Public benefit, convenience, and needs

The Bank does not establish that it will meet the convenience and needs of the communities impacted, or that this merger will provide a public benefit. To do so, we believe the Bank should address concerns about its mortgage lending, overdraft policies, outreach to Native American communities, and tribal lands, language access for commonly spoken non English languages used in its assessment areas, and support for broadband access which is so vital for residents of its communities to fully access banking, jobs, education and health.

<u>Opportunities for the Bank to meet community needs and address concerns</u>

We once again list the issues raised and community needs identified by community groups, many of which the Bank may be willing to address in some fashion, and that we urge the Bank to commit to address, or the regulators to require the Bank to address in a revised CRA Plan as part of any conditional merger approval:

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[34] Manuela Tobias, Nigel Duara, and John Osborn D'Agostrino, "Where are tenants falling through the cracks of California eviction ban?" CalMatters July 1, 2021, available at: https://calmatters.org/housing/2021/07/california-eviction-moratorium-tenants/

[35] Joe Adler, "OCC weighing rules on bank board diversity," American Banker, October 5, 2021.

Community Reinvestment Opportunities for Tri Counties Bank:

Small Business

- Tracking of loans to very small businesses (businesses under $500K)
- Additional $2Million in grants for small business TA providers
- Additional $5Million ($2Million of which targeted to Kern County) investments in microlenders that can lend to low and no credit businesses

Serving BIPOC Communities

- Commit to increasing mortgage lending to Black, Latino, Native American and AAPI households and mortgage lending in minority-majority neighborhoods each year
- Track and report grants and investments to BIPOC-led and BIPOC serving nonprofits
- Track and set goals for Board diversity and spending to BIPOC and women owned vendors

Outreach

- Hire regional CRA officer to build and support local relationships
- Increase outreach and support in ethnic media outlets
- Develop a Native American community and tribal lands outreach plan
- Explore providing translation and language access services in the top 3 most spoken languages in each of the counties served

Consumer

- Increase financial literacy support through contributions to providers
- Support broadband: a) infrastructure deployment, using the Bank's clout to get people to the table; b) digital literacy training; c) technology access by providing devices and subsidizing internet services.
- Restrictions on overdraft practices

We add to this list the issues identified above.

Conclusion

While we appreciate the Bank engaging in dialogue and responding to our comments, we retain our concerns that Tri Counties has not met community credit needs, established that convenience and needs will be served, and that this merger will provide a public benefit. We urge the Bank to revise its CRA Plan to address all issues raised, and urge the Federal Reserve Bank of San Francisco and the FDIC to scrutinize these applications. Any merger approval should be conditioned on the development by the Bank of a stronger, public CRA Plan that meets community credit needs identified and is commensurate with the Bank's growing size.

We do appreciate that the Bank is "committed to continue working with CRC, GI and other community groups to understand the banking needs of the communities in our footprint," and we look forward to constructive dialogue going forward to the ultimate benefit of California communities.

Should you have any questions about this comment letter, or wish to discuss further, please feel free to contact Kevin Stein of the California Reinvestment Coalition (kstein@calreinvest.org) or Rawan Elhalaby of the Greenlining Institute (rawane@greenlining.org).

Thank you for your consideration of these comments.

Very Truly Yours

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cc: Congresswoman Maxine Waters, Chair, House Financial Services Committee
Acting Commissioner Christopher Shultz, CA Department of Financial Protection and Innovation
CEO Jesse Van Tol, National Community Reinvestment Coalition
Acting Director Dave Uejio, Consumer Financial Protection Bureau