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Is Now the Time for CRA Reform: Regulatory and Legislative Developments

About NCRC

The National Community Reinvestment Coalition and its grassroots member organizations create opportunities for people to build wealth. Its [members](#) include community reinvestment organizations; community development corporations; local and state government agencies; faith-based institutions; community organizing and civil rights groups; minority and women-owned business associations, as well as local and social service providers from across the nation.

Programs & Services

- Agenda-setting research, training, insight
- Renovate and build affordable homes for low- and moderate-income families
- Counseling for home buyers and owners
- Business-building expertise for entrepreneurs
- Train and support housing counselors
- Test and challenge discrimination in financial services and housing
- Convene and facilitate agreements between financial institutions and community networks to increase lending, investments and philanthropy in neighborhoods that need it
- Represent members before Congress and federal regulatory agencies
- Routinely cited by journalists, economists and scholars focused on banking, housing, urban renewal, rural development and civil rights.

2020 in review: What was accomplished - Fed proposed changes to CRA are a critical opportunity for reinvestment, OCC jettisons its final rule

- **The Office of the Comptroller of the Currency rescinded its final rule weakening the Community Reinvestment Act in July 2021.** Why harmful – one ratio and partial benefit for LMI
- **The Federal Reserve Board announced its possible CRA changes under consideration in October 2020.** Comments were due in February 2021. Community groups and banks spoke out against OCC proposal; this likely influenced Fed’s approach not to start from scratch but incrementally improve existing exam regime.
- **The Fed proposal, if strengthened, could represent a consensus path forward** for all three bank regulators – expect proposed rule in early 2022.

Critical issues for CRA regulatory reform

- Structure of tests
- Tailoring – different tests for different banks
- Assessment areas – account for rise of branchless banks
- CRA and race
- Need for better data
- Combat CRA ratings inflation

Fed proposal preserves critical retail lending, services, community development lending/services tests

- Retail Lending Subtest, Service Retail Subtest, CD Finance Subtest, CD Services Subtest
- Performance measures: % of retail loans to LMI borrowers and tracts; CD ratio of CD finance/deposits; qualitative measures (impact scores)
- Improvements needed: Fed ANPR not explicit on whether its measures and thresholds would lessen CRA ratings inflation

Fed proposal preserves current bank exams, but should not raise asset threshold for small banks

- Large & Small Bank Exam; Strategic Plan option
- Fed proposed \$750 million for small bank designation should be lowered; threshold now is about \$326 million; Fed proposal could lose up to \$5.6 billion in CD financing over 3 years.

The Fed proposes to expand bank assessment areas, but should not adopt national assessment areas for online banks

- Retain branch-based AAs; add lending or deposit based-AAs based on activity volumes such as 100 loans
- 100 loan threshold will capture areas with significant activity; oppose Fed consideration of a national AA for internet banks; NCRC [white papers](#) show how AAs can be readily developed for retail internet or hybrid banks.

Fed improves criteria for community development activities considered under CRA, but some problems remain

- CRA qualified list, pre-clearance procedure, some relaxation from LMI focus such as financial education for all income levels
- Mostly retains focus on LMI, but will be pushing back on financial education proposal & want more guidelines on unsubsidized rental to make sure it is LMI-focused.

The Fed proposal elevates the discussion of racial equity within CRA but should be expanded

- Discussed racial equity in ANPR; proposes elevating financial assistance to MDIs; asks about underserved areas
- NCRC developed [an approach](#) that identifies a large overlap between communities of color and underserved tracts.

Fed data disclosure proposal an improvement over current data on exams, but more data is needed to implement successfully

- Discussed need for more CD and deposit data.
- Need new data for each bank at census tract level or at least county level for CD data.

Fed proposal ensures that fair lending violations are considered under CRA, adds protections for servicemembers and UDAAP violations

- Added that violations of the Military Lending Act, the Servicemembers Civil Relief Act and the prohibition against unfair, deceptive or abusive acts or practices (UDAAP) can result in downgrades. Also, violations in provision of deposit products in addition to lending.
- Approve of Fed approach but NCRC asked for better fair lending reviews in CRA exams to include detailed descriptions of how fair lending records were reviewed, what products were reviewed, and conclusions of reviews.

Fed proposal improves rating system and elevates the importance of smaller metro and rural areas, but does not adequately address grade inflation

- Eliminated distinction between full and limited scope AAs which had counted smaller metro and rural counties less on CRA exams.
- NCRC asked for retention of five ratings for subtests & further development of thresholds for less CRA ratings inflation.

Merger reviews & Public Input

- ANPR is silent, though CRA ratings are a major factor on merger reviews
- In response to Fed question about racial inequities; NCRC stated requiring public benefit plans and robust CRA exams helps promote equity during merger reviews and approvals.

Legislative reform: Warren and Cleaver bill on CRA

- Section 203, Strengthening The Community Reinvestment Act Of 1977, Of The American Housing And Economic Mobility Act Of 2021 (S. 1368, H.R. 2768)
- NCRC summary of bill: click [here](#)

Bill would establish additional local assessment areas

- This provision would require CRA exams to include areas without branches where a bank has significant numbers of loans and/or deposits.
- The provision would require that at least 75% of a bank's loans and/or deposits be covered by assessment areas.
- NCRC found that when coverage is less than 75%, CRA ratings inflation is more likely.

Bill would address racial disparities by adding underserved areas on CRA exams

- The federal agencies would be required to define underserved areas based on low levels of retail lending and/or indicators of economic distress. These areas would be census tracts and counties.
- Exams would include an assessment of lending, investment and services in these areas. Many of these areas would include communities of color.
- NCRC estimates that home and small business lending would increase in communities of color by \$10 billion over five years if the agencies adopted NCRC's approach to identifying underserved communities.

Bill would combat CRA ratings inflation

- This provision would combat grade inflation by including a fifth rating category. Current exams have four ratings categories and more than 98% of banks score either Satisfactory or Outstanding, which are the two passing ratings.
- the provision would allow agencies to include more nuance in the ratings system by allowing them to introduce a point scale that would accompany the ratings.
- A more nuanced ratings systems with five ratings – adding a category in which banks pass but barely provides motivation for improving and providing more loans, investments and services

Bill would require community benefits plans for merging banks

- The bill would require merging banks to develop a community benefits plan with input from community organizations that would commit the banks to specific increases in loans, investments and services in underserved communities.
- After mergers, increases in reinvestment would be more likely if this provision was enacted.

Bill would improve accountability through data disclosure requirements

- The bill requires disclosure of community development financing including loans, investments and grants for affordable housing, economic development and community facilities.
- This data is to be used by the public and CRA examiners in increasing the accountability of banks for serving traditionally underserved communities.

Bill would extend CRA to mortgage companies

- Independent mortgage companies made more than half of home loans over the last several years.
- This bill would apply CRA to these companies in much the same way as the state of Massachusetts' CRA law
- The mortgage companies would have a retail lending test and their community development financing and services would also be assessed.

CRA reform depends on you!

- ANPR was last year
- NPR time!
- Take away points – make your views known now to Fed staff on areas of most interest to you. Participate in rulemaking and request for comments next year – from quick (modify sample letters) to more involved (pick a need or topics of keen interest)
- We will inform you of any emerging legislative developments and opportunities for advocacy



National **Community Reinvestment** Coalition

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We're a network of local and national nonprofits,
government and educational institutions.

Together, we lead the movement for a #JustEconomy.

For upcoming training and events from NCRC, visit:

www.ncrc.org/events