CDFI Industry Recommendations for Community Reinvestment Act (CRA) Reform

January 23, 2020
Housekeeping

- The webinar is being recorded. The audio recording and slides will be available at ofn.org/webinars.

- Questions can be typed into the chat box at any time.

- You can also raise your hand to have your line unmuted.
Overview: The Community Reinvestment Act

- The Community Reinvestment Act (CRA) became law in 1977 to combat discriminatory lending practices by banks.

- CRA requires banks to meet the credit needs of the communities they serve, including low- and moderate-income (LMI) neighborhoods, consistent with the banks’ safe and sound operations.

- The Office of the Comptroller of Currency (OCC), the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve of Governors currently enforce the CRA through a joint regulatory framework.
CRA Regulatory Reform Process

- The OCC launched the reform process in summer 2018, issuing an *Advanced Notice of Proposed Rulemaking* (ANPR) on changes to the regulatory framework for enforcing the CRA.

- OFN consulted extensively with our membership, ally organizations and other stakeholders to review the proposal and develop policy positions on the ANPR.

- OFN’s *November 2018 comment letter* opposed the “one-ratio” approach in the ANPR, made specific recommendations related to CDFIs, and commented on other critical aspects such as assessment areas and CRA-qualifying activities.
CRA Regulatory Reform Process

- In a Notice of Proposed Rulemaking (NPR) released on December 12, the OCC and FDIC took the next step in a major overhaul of CRA for the first time in 25 years.

- It is extremely noteworthy that the Federal Reserve has not joined the other two regulators in issuing this rulemaking. Federal Reserve Board Governor Lael Brainard provided an alternative approach during a speech at the Urban Institute on January 8.

- The NPR was published in the Federal Register on January 9, 2020 with a 60 day comment period. Recommendations are due to the OCC and FDIC by March 9, 2020.

- OFN submitted a letter requesting an extension of the comment period to 120 days.
CRA Regulatory Reform Process

Congress has also taken an interest in CRA regulatory reform:

- Joint letter to regulators led by Rep. Meeks (D-NY) and Sen. Brown (D-OH)

- On January 14, the House Financial Services Subcommittee on Financial Institutions and Consumer Credit held a hearing entitled “The Community Reinvestment Act: Reviewing Who Wins and Who Loses with Comptroller Otting’s Proposal”.

- On January 29, the full Financial Services Committee will hold a hearing entitled “The Community Reinvestment Act: Is the OCC (Office of the Comptroller of the Currency) Undermining the Law's Purpose and Intent.”
  - 2128 Rayburn House Office Building @ 10AM EST.
  - Watch the livestream
Developing Recommendations for CRA Reform

- The regulatory comment process provides an opportunity to develop nuanced policy positions on the proposal.

Opportunities to Participate in Developing OFN’s Policy Positions

- First Staying Connected call – Thursday, January 7 2:00-3:30PM EST
- TODAY’s Staying Connected call – Thursday, January 23 2:00-3:00PM EST
- Circulate Draft Comments to OFN members – Early February
Reforming CRA Regulations: Today’s Discussion

On today’s webinar, we are seeking your comments on key provisions in the NPR:

- Performance Standards – **How** to measure CRA activity
- Redefining Assessment Areas – **Where** it counts
- Expanding CRA-Qualifying Activities – **What** counts
- CDFI multiplier
Proposed Metric for Determining a Bank’s CRA Rating

\[
\frac{\text{Dollar Volume of CRA Eligible Activities}}{\text{Dollar Volume of a Bank’s Retail Deposits}}
\]

- \(\frac{6}{100} = \text{Satisfactory}\)
- \(\frac{11}{100} = \text{Outstanding}\)
Measuring Community Development

The proposal includes a Community Development (CD) minimum that requires the total amount of CD loans and CD investments divided by retail domestic deposits to be not less than 2 percent.

Banks must meet or exceed that 2 percent threshold in over 50% of their assessment areas and at the overall bank level to receive an “Outstanding” or “Satisfactory” rating.

The separate community development test that certain banks must meet under current regulations is eliminated.
Performance Measurement: Discussion Questions

- Are there any refinements in the current proposal that should prompt OFN to reconsider its opposition to the dollar volume ratio design?

- Community development lending is measured very differently in the OCC-FDIC proposal. Are there concerns or recommendations the CDFI industry should make regarding the community development test?

- Should banks be required to meet the community development standards in more than 51% percent of their assessment areas? If so, what should that threshold be?
Redefining Assessment Areas

Under the current system, a bank’s Assessment Area (AA) is largely determined by its deposit-taking, branch or HQs location.

The proposal would create “facility-based” Assessment Areas and a new category of “deposit-based” Assessment Areas.

- Facility-based AAs – Banks still required to have AAs around their main office, branches, or non-branch deposit-taking facilities as well as the surrounding areas where banks have originated or purchased a substantial portion of their loans.

- Deposit-based AAs - Banks that receive 50 percent or more of retail domestic deposits outside of facility-based AAs would be required to delineate deposit-based AAs where they receive five percent or more of their retail domestic deposits.
Redefining Assessment Areas

- Banks need to meet the performance measures (6% for a Satisfactory and 11% for an Outstanding, with Community Development activity accounting for 2%) for a majority of their assessment areas. In other words, banks could fail in 49% of their AAs and still receive a Satisfactory or Outstanding rating.

- Banks can get credit for CRA activities outside of their AAs at the bank-level CRA performance evaluation.
  - Example: Lending in Indian Country
Redefining Assessment Areas: Discussion Questions

- Establishing deposit-based assessment areas is new. How will this impact CDFIs and the provision of credit to LMI people and places?

- Should banks be required to meet the performance standards in more than 51% percent of their assessment areas? If so, what should that threshold be?

- Are there other ways that CRA reform can address “credit deserts” and “credit hotspots”?

- Should banks still be required to meet the needs of their assessment areas before getting credit outside of their assessment area?
Qualifying Activities: What Counts

- The proposed rule greatly expands the activities that are eligible for CRA credit, especially community development activities.

- New framework would create a non-exhaustive list of qualifying activities to provide greater certainty regarding which community development activities receive CRA credit.

- Proposal outlines process for updating the list and periodic public input on qualified activities.
Retail Lending Qualifying Activities: Discussion Questions

- Should consumer loans (car loans, student loans, and credit card loans) be included as part of the retail lending test?

- If so, should regulators assess the quality of the loan, i.e. provide less credit for high-cost subprime car or credit card loans?

- Should mortgage loans to higher income borrowers in LMI census tracts receive CRA credit?

- Should the threshold for small business loans and small farm loans be increased from $1 million to $2 million for both the size of the loan and the size of business/farm?
Community Development Qualifying Activities: Discussion Questions

- Should banks get CRA credit for financial literacy programs or education or homebuyer counseling that benefits individuals of all income levels or should it be limited to LMI individuals?

- Should essential infrastructure be required to directly benefit or serve LMI individuals or areas of identified need?

- Should all investments in qualified opportunity funds that benefit low- or moderate-income qualified opportunity zones qualify? What guardrails should be put in place to allow an investment to qualify?

- Are there other activities that should be included on the list that are not?
CDFI Multiplier: Discussion Questions

The proposal would double the value of qualifying activities involving CDFIs, community development investments (not including mortgage-backed securities or municipal bonds), and other affordable housing-related community development loans.

Should the “multiplier” for CDFI activities be higher than two? If so, what is the appropriate multiplier?
Get Involved: Advocacy Opportunities

- CDFI industry must engage in this critical policy conversation.

- Submit comments from your organization
  - OFN will provide sample comments
  - Every letter counts
  - Customize your comments

- Other Ways to Engage
  - Contact your Members of Congress to express your concerns
  - Draft op-eds, blogs
  - Use social media to share your thoughts
Questions?

Contact Us

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