

The “Community Reinvestment Act”

By Josh Silver, National Community Reinvestment Coalition

The “Community Reinvestment Act (CRA) of 1977” established continuing and affirmative responsibilities for banks to meet the credit needs of low- and moderate-income (LMI) neighborhoods in a manner consistent with safety and soundness. Congress has considered updating this critical law to strengthen CRA as applied to banks and expand CRA to non-bank financial institutions. In the summer of 2020, the Office of the Comptroller of the Currency (OCC) finalized a new rule on CRA that would decrease lending, investments and services in low- and moderate-income (LMI) neighborhoods. The two other federal bank regulatory agencies, the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve Board (Board), did not join the OCC in the new CRA rule.

HISTORY AND PURPOSE

Congress passed CRA in 1977 at a time when many banks and other financial institutions would routinely “redline” low-income or minority communities, refusing to invest in them or to extend credit to their residents. Since its enactment, CRA has expanded access to banking services and increased the flow of private capital into LMI communities.

PROGRAM AND ADMINISTRATION SUMMARY

Three bank regulatory agencies ensure that banks comply with CRA: the Board, the OCC, and the FDIC. These three agencies are charged with evaluating the extent to which banks are meeting local credit needs. This takes the form of a periodic CRA examination of a bank, during which the bank is given a rating for its performance.

Under CRA, large banks with assets exceeding \$1.305 billion are evaluated with three tests that measure performance in LMI communities (asset

levels for the bank size categories are adjusted annually to take inflation into account):

- The lending test evaluates a bank’s record of meeting credit needs in its assessment area(s) through home mortgage, small business, and small farm lending, as well as financing community development projects such as the construction of rental units.
- The investment test evaluates the number and responsiveness of investments, including Low-Income Housing Tax Credits and equity investments in small businesses.
- The service test evaluates the availability of bank branches, basic banking services, and community development services in low- and moderate-income communities.

Banks with less than \$1.305 billion in assets are evaluated primarily on lending and mid-sized banks (between \$326 million to \$1.305 billion in assets) also undergo an examination of their community development performance. Exams for smaller institutions below \$250 million in assets occur every four to five years, depending on their previous performance. Banks with assets exceeding \$250 million are examined once every two to three years.

CRA exams issue one of four ratings: outstanding, satisfactory, needs-to-improve, or substantial noncompliance. The last two ratings are considered failing ratings. In a particular assessment area, a bank can also receive a low or high satisfactory rating. Even a passing rating, such as satisfactory or low satisfactory, can motivate a bank to do better since ratings influence banks’ public relations and business strategies.

The federal agencies also consider banks’ CRA records when ruling on merger applications. A weak CRA record may be grounds for denying a merger application. Although denials are rare, federal agencies occasionally approve merger applications subject to specific conditions around

improving CRA and fair lending performance.

RESULTS

Because it holds lenders publicly accountable and empowers citizens and communities to engage in the regulatory process, CRA is effective in increasing access to credit and capital for traditionally underserved communities.

In February 2019, BB&T and SunTrust announced a proposed merger that would result in the sixth-largest U.S. commercial bank based on assets and deposits. The National Community Reinvestment Coalition (NCRC) was able to work with BB&T and SunTrust on a \$60 billion community benefits plan related to their merger. The plan includes \$31 billion in home purchase lending to underserved borrowers and neighborhoods, \$7.8 billion in small business lending, \$17.2 billion in community development loans and investments, \$3.6 billion in CRA eligible philanthropy, and 15 new bank branches in either LMI communities or neighborhoods that are primarily people of color.

Philanthropic giving will include support for organizations that address key issues facing communities of color – economic sustainability, public safety, education, and youth workforce development – with a focus on organizations having persons of color in board and management leadership. The plan was developed through direct participation in six input and listening sessions throughout the bank’s service areas, as well as input from participants in the regulator-hosted public meetings.

Since 2016, NCRC and its members have worked with First Merchants, Morgan Stanley, CIT, KeyBank, Huntington, Iberiabank, Fifth Third, First Financial Bank, Santander, First Tennessee, and Wells Fargo to negotiate agreements. The agreements made since 2016 total more than \$192.2 billion in loans and investments for communities of color and LMI communities as well as 59 new branches in LMI census tracts and census tracts that are majority people of color.

A [HUD publication](#) reviewed CRA’s accomplishments over its 40-year history.

Studies conclude that lending is higher in low- and moderate-income census tracts than in tracts with median incomes just above CRA-income thresholds. In addition, a [report](#) published by the Federal Reserve Bank of Philadelphia concluded that home purchase lending in LMI tracts would have declined by about 20% had CRA not existed. In addition, the [Penn Institute for Urban Research](#) also published a series of CRA research and policy papers, one of which found that CRA has prevented branch closures in LMI communities.

RECENT REGULATORY AND LEGISLATIVE ACTIVITY

The OCC’s final rule issued in June of 2020 would fundamentally weaken CRA.

In its new CRA regulation, the OCC implemented concepts that would reduce CRA-related lending and investing in future years. In particular, the agency proposed a “one ratio” measure that would consist of all CRA activity (the dollar amount of loans and investments) divided by bank deposits. Under the one ratio measure, banks could choose to forego certain activities such as low dollar mortgage lending to lower-income homebuyers in favor of large deals such as purchases of mortgage-backed securities that are not as responsive to immediate credit needs. In particular, the one ratio would enable banks to ignore local needs in some geographical areas and allow them to focus on lending and investing in areas where it may be easier to do so. This would violate the intent of CRA, which was to rectify redlining and to ensure that banks were responsive to needs in all localities in which they had branches and in which they did business.

The OCC broadened the activities that would count under CRA. Financing large infrastructure such as bridges would count, which would divert bank attention away from affordable housing and community development in LMI neighborhoods.

To compound matters, rental housing would be considered affordable if LMI households can afford the rent without verifying that they would be the actual tenants. All of these changes would again deviate from the purpose of the CRA legislation, which was focused on addressing the

credit needs in lower-income communities that were redlined.

The Board issued an Advance Notice of Proposed Rulemaking (ANPR) in the fall of 2020. The ANPR is not a proposed rule change but offered the Board's ideas for updating the CRA regulation. The Board's ANPR is a solid foundation from which to propose changes to CRA's regulations. The ANPR builds upon the existing CRA exam structure and improves the objectivity of performance measures. NCRC, our members and allies offered thoughts to the Board regarding how to strengthen some of the Board's ideas for reform during a comment period that ended in February of 2021.

On the legislative front, Senator Elizabeth Warren (D-MA) introduced the "American Housing and Economic Mobility Act of 2019." This ambitious bill strengthens CRA as applied to banks by updating assessment areas to include geographical areas in which banks make considerable numbers of loans and engage in other business activity but do not have branches. It would also mandate the inclusion of mortgage company affiliates on bank CRA exams. Finally, it would expand CRA to include independent mortgage companies.

TIPS FOR LOCAL SUCCESS

CRA is vital to promoting safe and sound lending and investing in communities. Community organizations are encouraged to comment on CRA exams and merger applications. The federal agencies post lists on their websites every quarter of upcoming CRA exams. Additionally, organizations should establish and expand upon dialogues with CRA officers at banks in their service areas to see how banks can increase their support of affordable housing. NCRC can help advocates get started with CRA dialogues in their community.

WHAT TO SAY TO LEGISLATORS

Legislative efforts to weaken CRA may arise at any time. Members should:

- Oppose bills that would weaken or repeal

CRA.

- Support any proposed bills such as Senator Warren's that update and strengthen CRA.
- Ask Members of Congress to oppose regulatory efforts to weaken CRA.

WHAT TO SAY TO REGULATORS

With a change in Administrations, there is a good chance that the OCC's final rule will be repealed and that the Board's ANPR will form the basis for updating the CRA regulation. NCRC encourages the Board, the FDIC and the OCC to issue a new proposed CRA rule on an interagency basis in the summer or fall of 2021.

An important means to preserving and strengthening CRA is to use it. Comment on CRA exams and merger applications. Engage with the regulatory agencies and insist that their CRA exams and merger reviews are rigorous.

Keep in touch with NCRC regarding opportunities to comment on any additional proposed changes to the CRA regulation.

FOR MORE INFORMATION

National Community Reinvestment Coalition,
202-628-8866, www.ncrc.org.

For CRA exam results, www.ffiec.gov.