Webinar: Modernization of the Community Reinvestment Act

Thursday, April 5, 2018, 2 - 3 p.m. EDT

Speakers

David Dworkin, National Housing Conference

Gerron Levi, National Community Reinvestment Coalition

Jim Matthews, Capital One

Buzz Roberts, National Association of Affordable Housing Lenders

Questions and technical details

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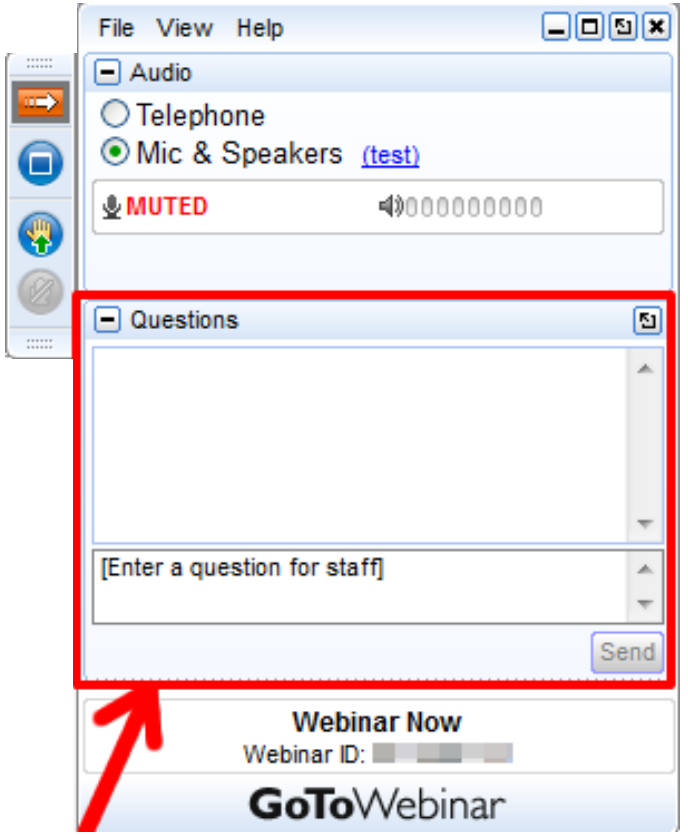


Overview of Treasury's CRA Report

April 5, 2018

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C.

April 3, 2018

MEMORANDUM FOR THE OFFICE OF THE COMPTROLLER OF THE CURRENCY, THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, THE FEDERAL DEPOSIT INSURANCE CORPORATION

FROM: U.S. Department of the Treasury

SUBJECT: Community Reinvestment Act - Findings and Recommendations

The Community Reinvestment Act (CRA) of 1977 was enacted to encourage banks to meet the credit and deposit needs of communities that they serve, including low- and moderate-income (LMI) communities, consistent with safe and sound operations. Banks are periodically assigned a CRA rating by one of the primary regulators – the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (FRB), and the Federal Deposit Insurance Corporation (FDIC), collectively the CRA regulators – based on the bank's performance under the appropriate CRA tests or approved Strategic Plan.[1] CRA was enacted in response to concerns about disinvestment and redlining as well as a desire to have financial institutions "play the leading role" in providing the "capital required for local housing and economic development needs."[2]

Clearer Guidance

"Banks should be allowed to obtain a limited number of eligibility determinations in advance on specific loans, investments, or services and any decisions requiring extensive regulatory consultation should then be able to be reduced to an exception basis only, providing consistency across banks operating in the same market, but under different CRA regulators. Such determinations should be made publicly available.

Treasury believes that expanding the universe of CRA-eligible activities would better align the regulatory regime with the intent of the CRA statute and would benefit all of the communities served by banks. As part of the inherent need for modernization of CRA administration, Treasury supports any reform effort that embraces innovative approaches to CRA eligibility definition, including technology-enabled approaches. This is particularly important in an ever changing technology environment and a landscape that is trending toward virtual for the delivery of banking services." P. 8

Endorsement of OCC

"Treasury recommends that the CRA regulators adopt uniform guidance that considers whether there is a logical nexus between the CRA rating and evidence of discriminatory or illegal credit practices in the bank's CRA lending activities while also giving consideration to the remediation efforts undertaken by the bank. The logical nexus principle should evaluate whether the violation would adversely impact the appropriate CRA examination or Strategic Plan, while also considering whether it would have a material impact on the bank's ability to serve its entire community. For example, a UDAP violation for a credit product that was not considered as part of a bank's CRA performance would not have a logical nexus to the bank's rating and would not affect the rating. On the other hand, violations of consumer protection laws that involve substantial evidence of redlining would be more likely to impact a bank's CRA rating, as this would be inconsistent with serving the needs of the entire community." P. 20

Endorsement of OCC

"Treasury recommends that the FDIC and FRB adopt policies and procedures that are generally aligned with changes adopted by the OCC for evaluating various bank applications. A bank with a less than Satisfactory CRA rating should continue to receive enhanced scrutiny, but more consideration should be given to the bank's remediation efforts to date and whether approving the application would benefit the communities served by the bank. It is inconsistent with the goals of CRA to limit a bank's ability to serve its entire community as a result of its less than Satisfactory rating. Treasury recommends that regulators use the application process as an incentive to encourage less than Satisfactory banks to commit to engaging in additional CRA-eligible activities in LMI communities." PP. 21-22

Clarity vs. Flexibility

"As currently implemented, Treasury believes that CRA regulation has too many subjective elements. This creates significant compliance burdens and related costs, without any commensurate gain in quality or execution of banks' CRA activity in the communities that banks are aiming to serve. The current restrictive nature of assessment areas, subjective performance context for individual MSAs, and the inconsistent nature of determining peer groups, all contribute to significant confusion and, therefore, inconsistency in the examination and ratings procedures.

Treasury recommends that the research and policy staff of the CRA regulators be involved in developing the performance context in advance of CRA examinations. This approach would allow economists and specialized staff to provide their expertise on the economic and business environment of the communities where the banks are operating as well as reduce the burden on CRA examiners." P. 9

Clarity vs. Flexibility

"Treasury advocates for an approach to the administration of CRA that incorporates less subjective evaluation techniques. Establishing clear criteria for grading CRA loans, investments, and services will lead to more accountable outcomes, result in more consistent, timely, and understandable ratings, and establish a basis against which banks can gauge their performance.

The actual "measurement" of CRA activity, like other regulatory standards such as liquidity, capital, and leverage should be reportable in a clear and transparent manner, allowing for better assessment of the impact of CRA activities. Such an approach would enable critics and supporters of CRA alike to measure the impact of CRA against a well-defined, consistent unit of measurement, such as total assets, capital, or another similar standard.

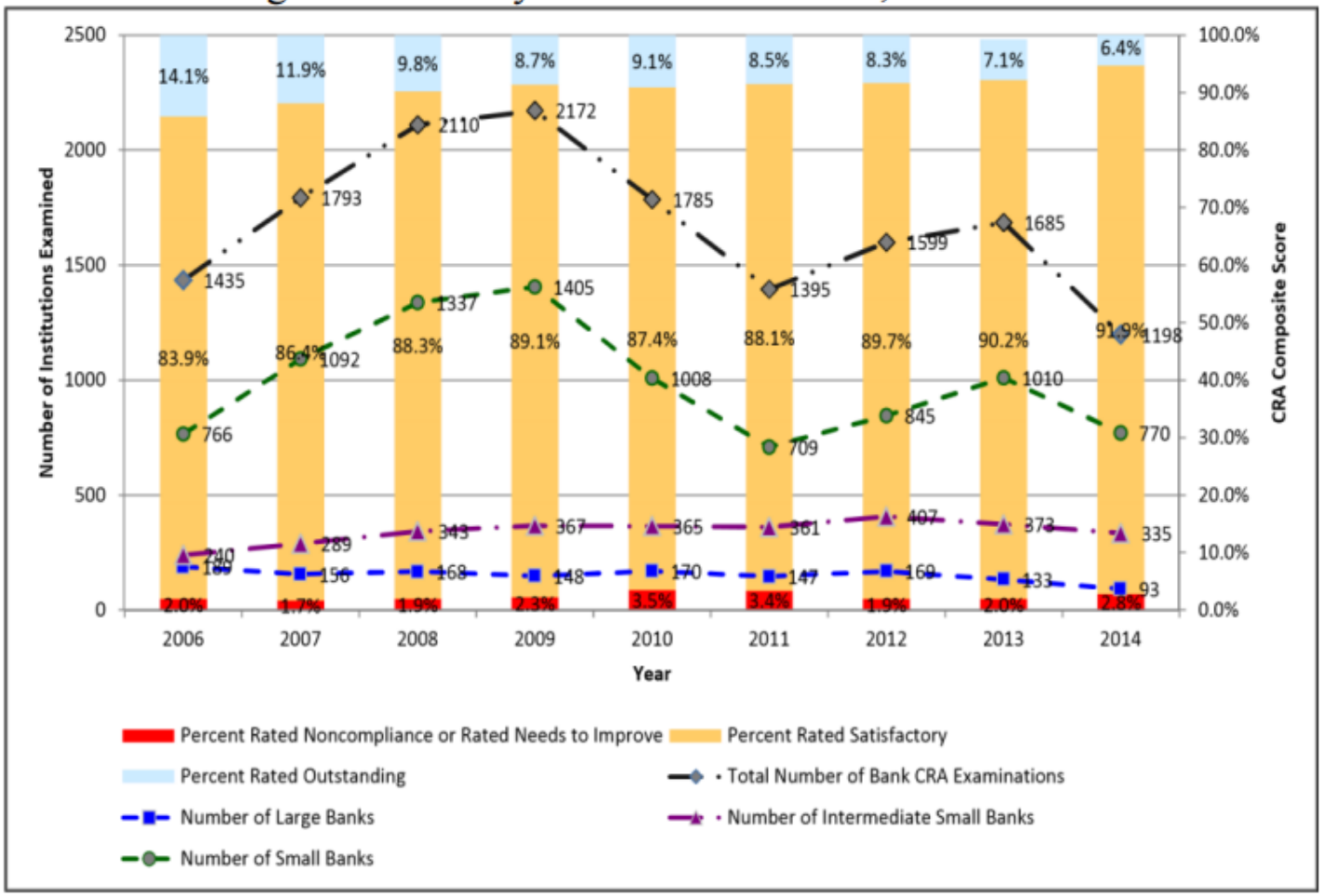
This approach would also allow banks to provide regular updates on CRA performance to the regulators and the public, while at the same time subjecting them to more regular accountability. Frequent CRA performance evaluations, as opposed to the current system that relies on multiyear assessment periods, could then be possible." PP. 11-12

Equity or Debt

- "Treasury recommends that community development loans receive the same annual consideration as community development investments. Longer term loans allow qualified entities to better match capital with the needs of the community. This recommendation could facilitate more capital for CDFIs and encourage more Small Business Administration lending to small businesses." P. 24

- "Treasury encourages the CRA regulators to review CCAR treatment for PWIs, including consideration of whether current capital standards are reflective of the actual performance of all PWIs, and whether the PWI category should be broken out into subcategories where capital standards could be more appropriately measured and reflected." P. 25

Figure 1: Summary of CRA Examinations, 2006 – 2014



Source: Data provided by the FFIEC CRA Rating Search, available at http://www.ffiec.gov/craratings/default.aspx. Graphic provided by Getter, D., *The Effectiveness of the Community Reinvestment Act*, Congressional Research Service (January 7, 2015).

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