Advance Notice of Proposed Rulemaking for the Community Reinvestment Act

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Board of Governors of the Federal Reserve System

Solutions for Affordable Housing Online Convening

December 1, 2020

ANPR Publication

- Following an Open Board Meeting, the Federal Reserve Board issued an Advance Notice of Proposed Rulemaking (ANPR) on CRA modernization on September 21, 2020.

- The ANPR was published in the Federal Register on October 19, 2020 with a 120 day comment period. Comments are due on **February 16, 2021**.

- E-mail comment letters (attached PDF file) to: regs.comments@federalreserve.gov and include docket (R-1723) and RIN numbers (7100-AF94) in the subject line of the message

CRA Modernization Objectives

- **Strengthen regulations in alignment with CRA statute:**

  - Strengthen regulations to ensure that a wide range of low- and moderate-income (LMI) banking needs are being met.

  - Promote financial inclusion, including credit for activities in areas with unmet needs outside of assessment areas, including Indian Country.

  - Incentivize investment in minority depository institutions and community development financial institutions.

  - Update standards in light of changes to banking over time, including mobile and internet banking.

  - Continue to promote community engagement.

CRA Modernization Objectives (continued)

- **Provide greater certainty, tailor regulations, and minimize burden:**

  - Bring greater clarity, consistency, and transparency to tailored performance evaluations.

  - Minimize data collection and reporting burden.

  - Tailor performance evaluations to bank size and business models and local conditions.

  - Clarify and expand eligible CRA activities focused on LMI communities.

  - Recognize the special circumstances of small banks in rural areas.

CRA Modernization Objectives (continued)

- **Provide a foundation for the agencies to converge on a consistent approach that has broad support among stakeholders:**

  - Build on stakeholder feedback from extensive Federal Reserve outreach, review of public comment letters, and ideas of all three banking agencies responsible for CRA.

  - Work towards a consistent approach by reflecting this feedback, providing a long comment period, and adding to the process by getting comments on additional proposal and options.

  - Continue to engage to get views of stakeholders throughout the process.

Assessment Areas

Goal: *Modernize assessment areas to reflect changes in the banking industry, including internet and mobile banking, while maintaining a focus on branches*

- **Facility-based assessment areas:**

  - Branches – Propose keeping assessment areas around branches.

  - Loan production offices and deposit-taking ATMs – Request for feedback on these options.

- **Potential new assessment areas – Request for feedback on the following options:**

  - Deposit-based assessment areas

  - Lending-based assessment areas

  - Nationwide assessment areas for Internet banks

Overview of Evaluation Framework

Goal: *Tailor evaluation framework to bank size and business model*

- **Large Retail Banks:**

  - **Retail Test:** Retail Lending Subtest and Retail Services Subtest **<u>AND</u>**

  - **Community Development Test:** Community Development Financing Subtest and Community Development Services Subtest

- **Small Retail Banks:**

  - Can choose to be evaluated under the current framework or the new framework

  - If elect the new framework, would be assessed solely under Retail Lending Subtest, unless they opt to have other activities considered.

    - Asset size threshold between small and large retail banks: Seek feedback on two options, $750 million or $1.0 billion.

- **Wholesale and Limited Purpose Banks:**

  - Evaluated under Community Development Test

Evaluation Framework for Large Retail Banks

Goal: *Ensure that the wide range of low- and moderate-income banking needs are met by separately evaluating retail lending, retail services, community development financing, and community development services*

Retail Test

Retail Lending Subtest	Retail Services Subtest
Retail Lending Metrics	Qualitative Review

Small retail banks may remain under current framework or may elect to be evaluated under only the Retail Lending Subtest. Can submit retail services activities for optional qualitative review.

Wholesale and limited purpose banks would not be evaluated under the Retail Test.

Community Development Test

Community Development Financing Subtest	Community Development Services Subtest
CD Financing Metric	Qualitative Review

Community Development Test would only apply to **large retail banks** and to **wholesale and limited purpose banks**.

Small retail banks can submit community development activities for optional qualitative review.

Qualifying Activities

Goal: *Increase certainty about what counts for CRA consideration and retain focus on activities that benefit low- and moderate-income communities*

- **Foster greater financial inclusion:**

  - Special provisions for minority depository institutions, women-owned financial institutions, low-income credit unions, and CDFIs

  - Broaden consideration to retail activities in Indian Country both inside and outside of a bank's assessment area

  - Designate certain activities as impactful and responsive, such as housing for *very* low-incomes households and activities with *very* small businesses and minority-owned small businesses

- **Provide greater *ex ante* certainty to what counts:**

  - Clearer definitions of affordable housing, community services, economic development, and revitalization and stabilization.

  - Publication of a non-exclusive illustrative list and a pre-approval process

Qualifying Geographies

Goal: *Increase certainty as to where activities will be assessed and expand where activities will receive CRA consideration to foster financial inclusion*

- **Eligible states, territories, and regions**

- **Seeks feedback on expanding CRA consideration to designated areas of need:**

    - Economically distressed rural or metropolitan areas

    - Areas where the community development financing metric is below an established threshold

    - Areas that have low levels of home mortgage lending or small business loans as identified by lending data

    - Areas with limited bank branches or ATMs

    - Indian Country

    - Appalachia

    - The Mississippi Delta

    - Colonias areas

Ratings

Goal: *Increase clarity, consistency, and transparency, encourage activity in all assessment areas, and reflect any illegal credit practices in ratings*

- Grounded in performance in a bank's local communities

- Standardized and transparent process for developing ratings at each geographic assessment level (state, multistate MSA, and institution)

- Considers several options to ensure that all assessment areas, including smaller rural assessment areas, are appropriately factored into ratings

- Activities with MDIs, women-owned financial institutions, and low-income credit unions would receive consideration for "outstanding" rating

- Discriminatory or illegal credit practices would adversely affect CRA assessment.

Data Collection

Goal: *Increase clarity, consistency, and transparency while minimizing data collection and reporting burden*

- Rely on existing data to the greatest extent possible.

- Exempt small banks from deposit data collection requirements.

- Existing data sources would also be used when possible for large banks.

  - New data collection and reporting on community development financing activities

- Considering deposit data options for large banks:

  - Particularly for large banks with extensive deposit activity outside of the areas served by their physical branches

  - FDIC Summary of Deposits data versus new data collection and reporting

- Exploring options for retail and community development services

Proposals for Rural Areas

Goal: *Tailor assessments to recognize the unique circumstances of rural areas*

- Expanded definition of community development services in rural areas

- Designated geographic areas of need that overlap with rural communities

- The use of calibrated thresholds in assessment areas for both the Retail Lending Subtest and Community Development Financing Subtest

- Ratings for Retail Test and Community Development Test inclusive of all assessment areas, including smaller rural assessment areas