

Cabinet News and Views

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Federal Banking Agencies Finalize Community Reinvestment Act Rules



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On Tuesday, the Federal Deposit Insurance Corporation (“FDIC”), the Federal Reserve Board (“FRB”) and the Office of the Comptroller of the Currency (“OCC”) (together, the “Agencies”) issued a [final rule](#) to amend and update the rules implementing the Community Reinvestment Act (“CRA”). The proposal was issued in May 2022 and the Agencies reported receiving approximately 1,000 unique comments on the proposal. As we [discussed in 2022](#), the OCC had previously gone its own way in a [June 2020 rulemaking](#), rather than follow the tradition of issuing a joint rulemaking. In 2021, the OCC then [rescinded](#) that rule and reverted back to the 1995 interagency version of the rule. Tuesday’s action by the Agencies is a culmination of the Agencies work to modernize the CRA on an interagency basis and to “maintain a unified approach.”

Though all three Agencies took a unified approach across the Agencies, the view of the final rule was not unanimous across the Agencies. At the FDIC, the two Republican members of the Board of Directors, Vice Chair [Travis Hill](#) and Director [Jonathan McKernan](#), voted against the final rule. At the FRB, Governor [Michelle Bowman](#), also a Republican member, voted against the final rule. The three dissenters cited similar concerns regarding the rule’s length and complexity, the possible arbitrariness of the retail lending test given its grading on a curve, and other possible Administrative Procedures Act infirmities.

As pointed out in the FRB’s [press release](#) summarizing the final rule, “it updates the CRA regulations to achieve the following key goals:

- **Encourage banks to expand access to credit, investment, and banking services in LMI communities.** Under the final rule, the agencies will evaluate bank performance across the varied activities they conduct and communities

in which they operate so that the CRA continues to be a strong and effective tool to address inequities in access to credit and financial services. It promotes financial inclusion by supporting bank activities with Minority Depository Institutions and Community Development Financial Institutions and in Native Land Areas, rural areas, persistent poverty areas, and other high-need areas.

- **Adapt to changes in the banking industry, including internet and mobile banking.** The final rule will modernize the CRA regulations to evaluate lending outside traditional assessment areas generated by the growth of non-branch delivery systems, such as online and mobile banking, branchless banking, and hybrid models. The revised regulations have been calibrated to recognize the continued importance of bank branches, while establishing a much-needed framework to evaluate the digital delivery of banking products and services.
- **Provide greater clarity and consistency in the application of the CRA regulations.** The final rule adopts a new metrics-based approach to evaluating bank retail lending and community development financing, using benchmarks based on peer and demographic data. The agencies will develop data tools using reported loan data that give banks and the public additional insight into performance standards. The final rule also clarifies eligible CRA activities, such as affordable housing, that are focused on LMI, underserved, native, and rural communities.
- **Tailor CRA evaluations and data collection to bank size and type.** The final rule recognizes differences in bank size and business models. For example, small banks will continue to be evaluated under the existing framework with the option to be evaluated under the new framework. The rule also exempts small and intermediate banks from new data requirements that apply to banks with assets of at least \$2 billion and limits certain new data requirements to large banks with assets greater than \$10 billion.”

The bulk of the rule’s requirements will be applicable on January 1, 2026, but some data reporting requirements will be applicable on January 1, 2027.

The final rule conceptually followed much of what the Agencies proposed in 2022, but the Agencies did note the following eight changes made in the final rule from the proposal:

Key Changes in Final Rule

Based on an analysis of comment letters and further agency review, the final rule includes the following key changes from the proposed rule as stated in the Interagency fact sheet:

1. Reduces complexity and data requirements while providing a consistent and comprehensive approach to evaluating banks under the Retail Lending Test by such changes as reducing the number of major product lines potentially evaluated under the new Retail Lending Test from six to three: (1) closed-end home mortgage loans; (2) small business loans; and (3) small farm loans.
2. Adjusts retail lending performance ranges while maintaining high standards; also increases weighting of Community Development (“CD”) financing

- activities by adjusting the standards to make “Low Satisfactory”, “High Satisfactory”, and “Outstanding” conclusions under the Retail Lending Test more achievable and gives equal weight to retail activities and CD activities (compared to a proposed 60 percent retail/40 percent CD split).
3. Retains evaluation of banks with significant retail lending outside of branches while increasing tailoring of the retail lending assessment area approach with more tailoring between small, intermediary and large banks, but the approach would still evaluate banks with significant concentrations of retail loans outside facility-based (e.g., branches) assessment areas.
 4. Adds metric and impact factor to evaluate bank CD investments under the CD Financing Test by such things as adding and impact factor for Low-Income Housing Tax Credit and New Markets Tax Credit investments.
 5. Provides additional flexibility under the strategic plan option while continuing to meet the credit needs of communities for banks with nontraditional business models.
 6. Addresses feedback on the need to have additional time for banks to implement the new rule by increasing compliance period.
 7. Retains and clarifies the provision on CRA ratings downgrades by maintaining the current standard for “discriminatory or other illegal credit practices” rather than both credit and non-credit practices as proposed.
 8. Ensures consideration of certain small business loans under the economic development category of community development in addition to evaluation as a retail loan.

The approximately 1,500-page preamble and rule leaves a great deal of details that we and the banking industry continue to review. As that review continues, stakeholders of all types will likely see that they may have gotten some, but certainly not all, of what that they asked for during the comment period.
