Community Reinvestment Act (CRA): An Update

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Preview

- CRA Overview
- Impact on Financial Institutions
- Compliance Expectations
- Recent Changes – Final Rule
- Key Compliance Strategies to Meet CRA Requirements
- Upcoming Regulatory Changes Preparation

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Community Reinvestment Act Overview

What is CRA?

- (CRA) encourages *certain* insured depository institutions to help meet the credit needs of the communities in which they are chartered, including low- and moderate-income (LMI) neighborhoods, consistent with the safe and sound operation of such institutions.
- The CRA requires federal banking agencies to assess the institution's record of meeting the credit needs of its entire community, including LMI neighborhoods, consistent with the safe and sound operation of such institution, and take such record into account in its evaluation of an application for a deposit facility by such institution.
- On October 24, 2023, the OCC, the Federal Reserve Board (FRB), and the Federal Deposit Insurance Corporation (FDIC) jointly issued a final rule to strengthen and modernize the Community Reinvestment Act (CRA) regulations to better achieve the purpose of the CRA.

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CRA Overview, continued

- Office of the Comptroller of the Currency (OCC), Federal Reserve Board (FRB), and Federal Deposit Insurance Corporation (FDIC) evaluate how banks are fulfilling CRA objectives
  - Note: The Federal Reserve oversees state-member banks and state-chartered banks for compliance
  - What CRA objectives are you most familiar with?
- All state member banks, state nonmember banks, and savings associations that are not small or special-purpose institutions must do CRA reporting

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How much do you think banks have spent on CRA initiatives since 1977?

- A 2001 Treasury report[1] found:
  - $467 billion in mortgage credit flowing from CRA-covered lenders to LMI borrowers between 1993 and 1998.
    - Loans from the same institutions to poorer Americans rose by 39% while loans to wealthier individuals rose by 17%.
- The American Bankers Association[2] found in 2022 that “banks provided more than $227 billion in capital to…LMI communities in the form of mortgages and small business loans, and an additional $151 billion in community development loans.”
  - an $89 billion difference between 2022 and the 6 years spanned between 1993 and 1998
- FFIEC[3] provides aggregate reports back to 1996 through 2022.
  - I am working to synthesize those numbers.

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CRA Impact and Food for Thought

- Does it move the needle? Why?
- Has it moved the needle? Why?
- Does what we've spent "to date" justify or outweigh the outcomes/impact? How do we know?
  - Needed but enforcement is challenging – final rule an attempt to address
  - Is it still relevant because banks always gravitate to profitable loans?
  - Does more lending equate to better outcomes?
  - Has it done enough to provide access to credit?
    - Is access to credit enough to guarantee successful outcomes for all parties?
  - Are some banks driven out of areas that they should want to serve?
  - Have/Do credit markets increase racial segregation?

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Financial Institutions Impact

- Banks receiving satisfactory+ ratings are eligible for many opportunities – lending, investment, and service tests apply
  - Favorable ratings decrease CRA examinations
  - Provide more favorable consumer outlook
- Ability to expand
  - CRA ratings considered when banks request to merge with other financial institutions or to expand to other locations.
- Maintaining satisfactory+ ratings requires that banks stay up-to-date on CRA rules and regulations while keeping a process in place that ensures compliance
- Reputation in the community - Bank ratings are made available to the public through the public file
- Long-term ROI for lending banks as neighborhoods stabilize and revitalize
- The final rule aims to help banks meet CRA expectations

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EXCLUSIONS

- While CRA was promulgated to ensure that banks provide lending/credit in communities where they have a presence, Credit Unions remain exempt from CRA.
- (Sept. 5, 2024) – According to the latest financial performance data released by the National Credit Union Administration, total assets in federally insured credit unions rose by $79 billion, or 3.5 percent, over the year ending in the second quarter of 2024 to $2.3 trillion
- Your thoughts?

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What do you think about Community Benefits Agreements?

- Advocacy groups often pressure banks to enter formal agreements to spend dollars in a community over a given number of years
- Has your bank entered into a community benefits agreement?
  - These agreements may not have the desired effect, but its appeal to advocacy groups makes it an ongoing challenge
  - Since 2016, the National Community Reinvestment Coalition (NCRC) has facilitated the creation of **CBAs worth** $338 billion with 15 banking groups. The largest-to-date plan, finalized in April 2021, was a four-year, $88 billion agreement with PNC Bank, one of the largest banks in the country.
  - A prime example of an applauded CBA that didn't quite live to its expectation is the The Bronx Terminal Market CBA

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Compliance Expectations

- To receive credit
  - Loans, investments and services must have a primary purpose that generally improves the circumstances for LMI families or individuals as well as stabilizes and/or revitalizes their neighborhoods
  - Must be able to “pass” the assessments tests levied by the OCC, FDIC, and FRB
    - 4-tiered rating system:
    - Outstanding, Satisfactory
    - Needs to Improve
    - Substantial Noncompliance

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CRA Bank Evaluation for Rating

- Asset size – classification determines which CRA examination procedures are used
- The institution – capacity, business strategies, competitors, peers, financial condition
- The community – banks assessment area's demographic and economic data, as well as lending, investment, and service opportunities
- Lending* – the number and dollar amount of small loans to businesses and farms, and the success of innovative or flexible loan products
  - *The lending test is weighted more heavily than the other categories when establishing a bank
- Strategic plans – banks can use these as an alternative evaluation option, but they must justify that their business model is inconsistent with performance tests

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What are thee five evaluation method classifications by asset size?

- For Federal Deposit Insurance Corporation (FDIC)- and Federal Reserve-supervised financial institutions subject to CRA requirements, “small bank” means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than $1.564 billion.
- For FDIC and Federal Reserve-supervised financial institutions subject to CRA requirements, “intermediate small bank” means a bank with assets of at least $391 million as of December 31 of both of the prior two calendar years and less than $1.564 billion as of December 31 of either of the prior two calendar years.
- There is no CRA loan data requirement for an intermediate small bank, its next examination is under the intermediate small bank examination procedures even if that examination comes due during the financial institution’s first year as an intermediate small bank.

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What are thee five evaluation method classifications by asset size?

- FDIC- and Federal Reserve-supervised “large banks” are banks with assets of at least $1.564 billion as of December 31 of both of the prior two calendar years. Large banks are subject to CRA loan data collection, but cannot be examined under the large bank examination procedures until they have at least one full year of data collected. In addition, any size bank may opt to be examined as a large bank provided that it has collected and reported the required CRA loan data.

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What are thee five evaluation method classifications by asset size?

OCC Classification

- Large Banks: banks with at least $2B in assets. Large banks with over $10B in assets also have higher obligations such as increased data collection, maintenance, and reporting requirements
- Intermediate Banks: Banks with at least $600MM in assets but less than $2B in assets.
- Small Banks: Banks with less than $600MM in assets in either of the preceding calendar years.
- Limited Purpose Banks: A bank that is not in the business of extending certain loans to retail customers.

Assessment: Lending

- For large banks
- Must be in LMI communities, even with new rules
- Number and amount of loans in the assessment area
- Geographic distribution of loans
- Record of lending/lending-related activity to borrowers of different incomes and/or businesses and farms of different sizes
- Community development loans - # and amount, complexity and innovativeness
- Innovative or flexible lending practices to address LMI needs – must be consistent with safe and sound banking

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Assessment: Investment

- For large banks
- Must be in LMI communities, even with new rules
- Dollar amount of qualified community development investments
- Responsiveness of qualified investments to credit and community development needs

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Assessment: Service

- For large banks
- Must be in LMI communities, even with new rules
- Geographic distribution of retail bank branches
- Record of opening and closing retail bank branches
- Availability and effectiveness of alternative systems for delivering retail banking services in LMI geographies and to LMI individuals
- Range of retail services in each geography classification
- Extent of community development services provided
- Innovativeness and responsiveness of community development services

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Recent Changes

- Known as the “final rule”
- October 24, 2023
  - The Office of the Comptroller of the Currency (OCC), Federal Reserve Board (FRB), and Federal Deposit Insurance Corporation (FDIC) issued the final rule to strengthen and modernize regulations implementing the CRA to help the law better meet its purposes.
  - But wait…

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Recent Changes

- On March 29, 2024, the District Court for the Northern District of Texas granted the motion by several industry associations for a preliminary injunction of the revised Community Reinvestment Act ("CRA") **regulations** that the federal banking agencies finalized in October 2023 (the "Final Rule").
- The court in *Texas Bankers Association, et al. v. Office of the Comptroller, et al.* **enjoined** the federal banking agencies from enforcing the Final Rule in its entirety against the plaintiffs, extending the effective date of April 1, 2024, as well as all other implementation dates, day-for-day for each day that the injunction remains in place.

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What do you know about the 2023 CRA Final Rule?

Banks encouraged to expand access to credit, investment, banking services in LMI communities

Banks to adapt to industry changes, including mobile and online banking

CRA agencies provide greater clarity and consistency in the application of the regulations

CRA evaluations and data collection tailored to bank size, business models, local conditions – different test options

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CRA Final Rule, cont.

Tailor data collections/reporting requirements (use existing data)

Promote transparency and public engagement as fundamental

Confirm that CRA and fair lending practices are mutually reinforcing

Promote a consistent approach that applies to banks regulated by all three agencies

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How does the CRA Final Rule work for banks?

Reduces complexity and data requirements

Adjusts retail lending performance ranges and increases weight of CD financing activities

Retains evaluation of banks w/significant lending outside of branches while increasing tailoring of the retail lending assessment area approach

Adds metric and impact factor to evaluate bank CD investments

Provides additional flexibility under the strategic plan option while continuing to meet the credit needs of communities

Provides additional time for banks to implement the new rule

Retains and clarifies the provision on CRA ratings downgrades

Ensures consideration of certain small business loans under the economic development category

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What key strategies can a bank pursue to meet CRA requirements?

- Regularly review and consistently track all practices, processes, procedures, new ventures for CRA compliance
- Stay engaged with the changing conditions of the communities your banks and branches serve
- Dedicate time and resources to finding new CRA opportunities
- Innovation: Even the highest rated banks routinely fail to be innovative in how they look and treat CRA

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What can banks do to prepare for future regulatory changes?

- Invest in dedicated compliance personnel
- Provide regular opportunities for employees to stay engaged with/informed of CRA requirements
- Operate with the future in mind: flexible and nimble to address credit needs for all with special consideration for those who are low to moderate income

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Review

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References

[1] Lintan, R.E.; Retsinas, N.P.; Belsky, E.S.; and Haag, S.W. (2001). *The Community Reinvestment Act after financial modernization: A baseline report*. Retrieved September 20, 2024, from https://www.academia.edu/22047530/The_Community_Reinvestment_Act_After_Financial_Modernization_A_Final_Report.

[2] American Bankers Association (n.d.). *Community Reinvestment Act.* Retrieved September 20, 2024, from https://www.aba.com/banking-topics/compliance/acts/community-reinvestment-act.

[3] Federal Financial Institutions Examination Council. (n.d.). *Community Reinvestment Act: CRA aggregate & disclosure flat files*. Retrieved September 20, 2024, from https://www.ffiec.gov/cra/craflatfiles.htm.

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Thank you

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