VOICES OF CFDIs, MDIs, WDIs AND LICUs: A LISTENING SESSION ON CRA PROPOSED RULEMAKING

July 14, 2022
10:00 a.m. CT
Today’s agenda

- Overview of the Current CRA
- Transition to a new CRA
- CRA NPR
  - CRA Reform Objectives
  - Key Elements
  - Examples
  - Submitting comments
- Questions and feedback
OVERVIEW OF THE CURRENT CRA
The framework for evaluating a Bank’s CRA performance.

- **Facts and data**
- **Performance context**
- **Assessment areas**
- **Size and scope**
OVERVIEW OF THE CURRENT CRA

Evaluation of a Bank’s activities depends on its asset size.

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<tr>
<th>Small Bank</th>
<th>Intermediate-Small Bank</th>
<th>Large Bank</th>
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<td>Lending Test</td>
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<td>Combined Community Development Test</td>
<td>Investment Test</td>
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<td>Service Test</td>
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OVERVIEW OF THE CURRENT CRA

Community Development defined

- Affordable Housing for low- and moderate-income persons
- Community Services targeted primarily to LMI persons
- Economic Development activities that help finance small businesses or farms or that provide job training
- Revitalization or Stabilization activities.
CURRENT EXAMPLES OF CD INVESTMENTS

- Investments in CDFIs
- Investments in loan pools for LMI borrowers or small businesses
- State or local bonds for CD projects
- Low-income Housing Tax Credits
- Small Business Investment Companies
CURRENT EXAMPLES OF CD SERVICES

- Service on a board or committee
- Participation in an IDA program
- Helping design a loan program
- Assisting in marketing or fundraising
- Providing technical skills such as human resources, IT, legal or other expertise
The current period of CRA Modernization began in 2018 with the OCC’s Advanced Notice of Proposed Rule Making (ANPR)

Federal Reserve Board issued ANPR on October 19, 2020

OCC Rescinded its 2020 CRA Rule on December 14, 2021

The three agencies issued the Notice of Proposed Rule Making on May 5, 2022

Public comment period ends on August 5, 2022

Three agencies will review comments expeditiously
TRANSITION TO A NEW CRA

• The NPR is long! Why?
• Tailoring to bank size, complexity, and business model
• Unique needs of various geographies and communities
• Feedback that the regulations need to be clear and explicit in their proposal

• How to read the NPR
• Long preamble describes the current rules and provides the reasoning for the proposed changes
• Each section provides:
  • Background
  • Stakeholder feedback
  • The proposed rules
  • Request for feedback to specific questions
Notice of Proposed Rulemaking for the Community Reinvestment Act

Overview of NPR proposals
Comment period through August 5, 2022
CRA NPR

CRA Reform Objectives

• Strengthen the achievement of the core purpose of the statute
• Adapt to changes in the banking industry, including mobile and online banking
• Provide greater clarity and consistency in the application of the regulations
• Tailor performance standards to account for differences in bank size, business model, and local conditions
• Tailor data collection and reporting requirements and use existing data whenever possible
• Promote transparency and public engagement
• Confirm that CRA and fair lending responsibilities are mutually reinforcing
• Create a consistent regulatory approach among all three banking agencies
CRA NPR

Key Elements

• Assessment Areas
• Community Development Definitions
• Overall Evaluation Framework
• Performance Tests
  • Retail Lending Tests
  • Retail Services and Products Test
  • Community Development Financing Test
  • Community Development Services Test
    • Impact Review
• Ratings
• Data Collection and Reporting
CRA NPR: Community Development Definitions (1)

**Overview:** Provide more certainty on eligible activities and emphasize activities that are responsive to community needs, especially the needs of low- and moderate-income (LMI) individuals, LMI communities, small businesses, and small farms.

Under the proposal, the agencies would:

- Define a primary purpose standard for community development activities to ensure activities benefit LMI individuals and communities, as well as distressed and underserved non-metropolitan census tracts
- Include standards for qualifying activities building on current guidance
- Maintain a publicly available illustrative list of qualified community development activities and develop a process for a bank to request confirmation of an activity’s eligibility
CRA NPR: Community Development Definitions (2)

The proposal would include eleven community development categories that build on the existing community development definition. They are intended to provide greater clarity on activities that qualify:

- Affordable housing
- Economic development
- Community supportive services
- Revitalization activities undertaken with a government plan, program, or initiative
- Essential community facilities
- Essential community infrastructure
- Recovery activities in designated disaster areas
- Disaster preparedness and climate resiliency
- Activities with minority depository institutions (MDIs), women’s depository institutions (WDIs), low-income credit unions (LICUs), and Treasury Department-certified community development financial institutions (CDFIs)
- Financial literacy
- Activities in Native Land Areas
Notice of Proposed Rulemaking for the Community Reinvestment Act

Overview of provisions to support financial intermediaries
CRA NPR: Defining an MDI

A minority depository institution is a depository institution:

• In which (i) more than 50 percent of the ownership or control is held by one or more minority individuals and (ii) more than 50 percent of the net profit or loss of which accrues to one or more minority individuals,

• As defined in section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, or

• Considered to be as such by the appropriate federal banking agency.
Increasing certainty about treatment of bank-intermediary partnerships

To increase certainty surrounding the treatment of activities that support financial intermediaries including MDIs, WDIs, LICUs, and CDFIs, the agencies propose two other changes:

- Investments, loan participations, and other ventures undertaken by any bank, including by MDIs and WDIs, in cooperation with other MDIs, other WDIs, or LICUs, would be considered for CRA credit.

- All activities with CDFIs (referred to as Treasury Department-certified) would be eligible CRA activities.
CRA NPR: Encouraging CRA activities through an added impact review factor

The agencies propose that one of the impact-review factors pertain to activities that support or are conducted in partnership with MDIs, WDIs, LICUs, or CDFIs, since these financial intermediaries have missions highly aligned with CRA’s core purpose.

The NPR also specifies that retail lending-focused partnerships with MDIs, WDIs, LICUs, and Treasury Department-certified CDFIs should be considered when assessing the responsiveness of a bank’s credit products, offered in a safe and sound manner, in meeting the needs of LMI communities.
Key questions in the NPR (part 1)

- **Question 25.** Should the agencies also include in the MDI definition insured credit unions considered to be MDIs by National Credit Union Administration?

- **Question 26.** Should the agencies consider activities undertaken by an MDI or WDI to promote its own sustainability and profitability? If so, should additional eligibility criteria be considered to ensure investments will more directly benefit low- and moderate-income and other underserved communities?

- **Question 35.** Should the proposed factor on activities supporting MDIs, WDIs, LICUs, and Treasury Department-certified CDFIs exclude placement of short-term deposits, and should any other activities be excluded? Should the criterion specifically emphasize equity investments, long-term debt financing, donations, and services, and should other activities be emphasized?
Key questions in the NPR (part 2)

• **Question 105.** Should the agencies provide more specific guidance regarding what credit products and programs may be considered especially responsive, or is it preferable to provide general criteria so as not to discourage a bank from pursuing impactful and responsive activities that may deviate from the specific examples?
Submitting Comments

Comment period ends on **August 5, 2022**.

Comments can be submitted to any of the three agencies and all comments will be shared between the agencies. Refer to the NPR for additional details.

**Board:**
Submit a comment using the link on:
Comments can also be emailed, faxed, or mailed.

**OCC:**
Comments can also be mailed or hand-delivered.

**FDIC:**
Submit a comment here: http://www.fdic.gov/regulations/laws/federal/propose.html. Include the RIN 3064 -AF81 on the subject line of the message.
Comments can also be emailed, mailed, or hand-delivered.