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HOW COMMUNITIES WOULD BE IMPACTED BY NEW FEDERAL BANKING RULES

Preliminary Analysis

In the midst of the coronavirus pandemic, the Office of the Comptroller of the Currency issued new rules to determine how banks are regulated under the Community Reinvestment Act (CRA). On May 20, 2020, Comptroller Joseph Otting issued his final rules and is expected to step down soon**.**

Background: The Community Reinvestment Act (CRA) requires banks to help meet the credit needs of low- and moderate-income (LMI) communities where they do business. Thanks to Chicago activists, the CRA passed in 1977 with the purpose of curbing discriminatory bank lending, known as "redlining," and incentivizing investment in communities that had been systemically denied access to credit. The Illinois CRA Coalition organized formal comments in opposition to the proposed OCC rules because they would radically change how CRA is implemented, threatening the future of LMI communities. The OCC finalized the new rules without the support of the Federal Deposit Insurance Corporation (FDIC) or the Federal Reserve Bank. This lack of regulatory consensus, if not resolved, will result in a hodgepodge of conflicting rules. Some have described it as a "regulatory mess."

The Rule vs. The Proposal: The final rule—like the proposal—is a mixed bag. Some changes, consistent with our recommendations, improved on the proposal. Some changes did not. And many provisions were left unchanged.

Here are some **preliminary takeaways** in terms of the difference between the January 2020 proposal and the May 2020 final rule…

- The final rule **abolishes the numerical percentages** assigned to the CRA grades and to the pass/fail tests for retail lending (e.g., under the proposal a score of 11% or higher on the "one-ratio" measure would have received an "Outstanding" CRA grade). Instead, the OCC adopted a "wait-and-see" approach and decided to gather more data before coming up with specific numbers.

- To give more weight to bank branches, the final rule gives **double CRA credit to retail loans generated by branches in LMI census tracts.**

- Under the proposal, mortgages that are sold within 90 days of their origination would have received CRA credit at only 25% of their origination value. Under the final rule, **mortgages sold at any time within 365 days will receive full credit.**

- The final rule, consistent with the current regulatory framework, restored giving CRA credit to mortgages made in LMI communities. Under the proposal, only **mortgages made to LMI individuals** would have received credit.

- Under the proposal, CRA credit for branches in LMI communities would have been based on an "extra credit" formula, which would have added a small fraction to a bank's overall CRA score. In the final rules, the formula, was modified to give **twice as much credit for LMI branches**. Even then, a bank with a branch distribution close to the median would receive only an additional .56. *Doubling a tiny number is still a tiny number.*

- Automatic CRA credit for **improvements to athletic stadiums was stricken** from the final rule (replaced with improvement to "an athletic facility owned and operated for community benefit by a local nonprofit").

Still, much of what we were concerned about in the initial proposal was unchanged. Bottom line: The OCC's final rule is not a tenable solution.

What's next? For large banks, the new system would take effect on January 1, 2023. For intermediate and small banks, the new system would take effect on January 1, 2024.

Since neither the Federal Reserve nor the FDIC Federal Deposit Insurance Corporation (the two other federal banking regulators) signed on to the new rule, we expect that the OCC rules will not be implemented in their current form.

Banks, too, do not want a patchwork approach to a major regulatory change, and communities cannot afford a proposal which does not honor the spirit of the law: **to hold banks accountable to local community needs.**

What can you do to stop the overhaul of the CRA?

Sign up for CRA alerts so that you stay informed of efforts to defend and strengthen CRA. The coalition will continue to call for a strengthened and expanded CRA that better serves local communities.

Connect with Woodstock Institute at www.woodstockinst.org, or contact Brent Adams at badams@woodstockinst.org to learn more and get involved.