One Mission. Community Banks.

February 2024

ICBA Regulatory Update: Community Reinvestment Act Modernization

Topic/Issue: Community Reinvestment Act, Fair Lending

Agency: OCC, FDIC, FRB

Overview:

On October 24, 2023 the Federal Reserve Board, Office of the Comptroller of the Currency, and Federal Deposit Insurance Corporation issued a new CRA rule. The nearly 1500-page rule is the culmination of a years-long process to "modernize" the Community Reinvestment Act to better evaluate online banks and to make exams more quantitative and transparent. The final rule is a mixed bag for community banks containing some positive and negative elements.

ICBA Position:

ICBA supported CRA modernization and believed that a better approach to evaluating online banks was appropriate. We support the rule's increased asset thresholds – $600 million for small banks and $2 billion for large banks. We further support the ability for small banks to retain the current exam framework or opt-in to the new Retail Lending Test. We are concerned, however, about the complexity of the rule's new tests and the costs that intermediate and large banks will be required to incur in order to comply with the new framework. Furthermore, we oppose the idea that a greater number of banks should be rated as "low satisfactory" or "needs to improve," which is a probable outcome of the new metrics as currently calibrated.

Talking Points:

- The $600 million and $2 billion thresholds are improvements over the current levels, but more could be done to differentiate larger community banks from the largest money center banks.
- It is positive that banks under the small bank threshold will have the option to opt into the new framework or continue to be evaluated under the existing small bank test.
- Intermediate banks will be able to opt into the new community development test, or keep their current community development investment evaluation framework, but they will be required to comply with the new retail lending test. This will lead to increased complexity.
- Large banks will have new tests for retail lending and services and community development lending and services.
- The final rule includes a detailed list of qualifying activities and a process to get binding preapproval that a loan or investment qualifies for CRA credit which should increase ex ante certainty.
- The requirement for large banks that conduct more than 20% of their retail lending outside of their facilities-based assessment areas to delineate retail-lending assessment areas may be a burden for some banks but should provide a more reasonable approach for evaluating branchless online banks.

- The new retail lending test is more complicated than the existing framework and is likely to result in a significantly greater number of community banks receiving low satisfactory or needs to improve ratings. This appears to be a deliberate policy choice by banking regulators to "raise the bar" for CRA expectations.
- The ability for small and intermediate banks to continue to be permitted to delineate partial counties as assessment areas is a positive feature of the new rule.

866-843-4222
icba.org

1615 L Street NW
Suite 900
Washington, DC 20036

518 Lincoln Road
P.O. Box 267
Sauk Centre, MN 56378