



**WE BELIEVE  
IN OPPORTUNITY.  
FOR ALL.**

## Proposed Changes to the Community Reinvestment Act (CRA)

■ October 3, 2018

# Overview: The Community Reinvestment Act

- The Community Reinvestment Act (CRA) became law in 1977 to combat discriminatory lending practices by banks.
- CRA requires banks to meet the credit needs of the communities they serve, including low- and moderate-income (LMI) neighborhoods, consistent with the banks' safe and sound operations.
- The Office of the Comptroller of Currency (OCC), the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve of Governors enforce the CRA through a joint regulatory framework.

# CRA Modernization

- In an Advance Notice of Proposed Rulemaking (ANPR) published on September 5, the OCC has launched a process to consider changes to the regulatory framework for enforcing the CRA.
- Recommendations are due to the OCC by November 19, 2018.
- Following a review of public comments to the ANPR, the three bank regulators are expected to coordinate on developing recommendations for changes to CRA regulations. Changes will be put forward (probably in 2019) in the form of a proposed rule which will also be subject to a public comment process.

# Developing Recommendations for CRA Reform

- OFN is working with its members, as well as ally organizations, to shape recommendations in response to the OCC's ANPR.
- Opportunities to Participate in Developing OFN's Policy Positions
  - Staying Connected call – Thursday, September 13
  - TODAY's Staying Connected call - Wednesday, October 3
  - OFN Conference session – October 9
  - Circulate Draft Comments to OFN members – Late October

# Treatment of CDFIs in the CRA Regulations

- Loans and Investments in CDFIs qualify for CRA consideration under the community development test in the existing regulatory framework.
- Although greater clarity is needed, banks may receive CRA credit outside their Assessment Areas for their work with CDFIs under existing CRA regulations.
- Any changes to the regulatory framework must retain and strengthen provisions that encourage investments in CDFIs.

# Reforming CRA Regulations

- The ANPR seeks general feedback on the existing regulatory framework and poses questions on the following four issue areas:
  - Metric-Based Framework (One Ratio)
  - Redefining Assessment Areas
  - Expanding CRA-Qualifying Activities
  - Reporting and Recordkeeping

# Metric-Based Performance Measurement System

- The ANPR solicits public comment on a new metric-based system for determining a bank's CRA rating where "one ratio" compares all the bank's CRA activities (numerator) to its size (denominator).

# Metric-Based Performance Measurement System: Draft Recommendations

- A “one ratio” metric risks losing accountability to local communities in the hope of increasing simplicity and predictability, an uncertain outcome at best.
- A single ratio is insufficiently responsive to local market needs and economic conditions. It devalues smaller, more impactful, loans such as those involving CDFIs or those made in LMI markets where incomes and home values are lower.

# Redefining Assessment Areas

- Under the current system, a bank's Assessment Area (AA) is largely determined by its branch and deposit taking footprint.
- Communities lying outside a bank's assessment areas, or assessment areas where bank examiners conduct "limited" rather than "full scope" exams, have difficulty attracting bank investment and services because those activities do not gain the bank CRA credit.
- Wholesale and limited purpose banks (including internet banks) with limited physical presence currently have limited CRA obligations outside of their Assessment Area.

# Redefining Assessment Areas: DRAFT Recommendations

- Investments in certified CDFIs should receive CRA consideration regardless of the geographic location of the CDFI or the market it serves. Investing in CDFIs that serve low and moderate-income communities outside of a bank's defined assessment area should qualify for CRA credit.
- Larger and fewer assessment areas could lead to greater investment in underserved markets including rural communities and other "CRA deserts." Bank regulators should consider such a reform, particularly as it might impact banks without an extensive branch-based network.

# CRA-Qualifying Activities

- The ANPR seeks feedback on ways to achieve greater transparency and certainty regarding which community development activities receive CRA consideration.
- Bank regulators have broad latitude to define which activities qualify for CRA consideration.
- Lack of clarity about which activities qualify for CRA consideration make it difficult to predict which activities will qualify in a timely manner.

# CRA-Qualifying Activities: DRAFT Recommendations

- Certified CDFIs should receive the same treatment as minority and women owned financial institutions and low-income credit unions. This reform would provide banks with certainty that their loans and investments to CDFIs will receive CRA consideration.
- Bank loans to CDFIs should receive the same treatment as CDFI investments, allowing banks to receive CRA credit for each year a loan is outstanding. Currently, bank loans to CDFIs are only counted in the year of the loan origination while banks making equity investment in CDFIs receive CRA credit each year of the investment.

# CRA-Qualifying Activities: DRAFT Recommendations

- Secondary market loan sales and purchases – In determining CRA credit, loan originations should be valued more highly than loan purchases.
- Small business lending – In comments to the Consumer Financial Protection Bureau on the small business lending market, OFN recommended using the SBA and CRA thresholds of \$1 million in annual revenue for a business, and a maximum loan size of \$1 million to define a small business loan.

# Record Keeping and Reporting

- The existing CRA reporting system makes it difficult for the public to analyze CRA performance data and assess how well banks are meeting the needs of communities. CRA reports on an individual bank's performance are very complex and rarely timely, limiting their usefulness.

# Record Keeping and Reporting: DRAFT Recommendations

- Regulators should require banks to collect data tracking investment and lending activity with certified CDFIs.

# Additional DRAFT Recommendations

- CRA exams also exhibit significant inconsistencies across and within agencies. The regulators often use different performance measures and ratios on CRA exams, which can result in similarly situated institutions receiving different examinations and ratings.
- Regulators should improve examiner training to ensure consistent analysis, examination tables, and performance measures. Examiners should also receive additional training to better assess the affordability and sustainability of loans, services, and investments.

# Questions?

## ■ Contact Us

### ■ Jennifer A. Vasiloff, Chief External Affairs Officer

- Email: [jvasiloff@ofn.org](mailto:jvasiloff@ofn.org); Phone: 202.573.2123

### ■ Dafina Williams, Vice President, Public Policy

- Email: [dwilliams@ofn.org](mailto:dwilliams@ofn.org); Phone: 215.320.4318