Congressional Research Service
Informing the legislative debate since 1914

IN FOCUS

June 29, 2021

Implementation of the Community Reinvestment Act by the Office of the Comptroller of the Currency

Introduction

The Community Reinvestment Act (CRA; P.L. 95-128) addresses how banking institutions meet the credit needs of the areas they serve, particularly in low- and moderate-income (LMI) neighborhoods. The federal banking regulatory agencies—the Federal Reserve, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC)—currently implement the CRA. The regulators issue CRA credits, or points, to banks participating in qualifying activities (e.g., mortgage, consumer, and business lending; community investments; and low-cost services that would benefit LMI areas and entities) that occur within their designated *assessment areas*, locations where they collect deposits. These credits are then used to issue a *composite rating* of a bank's performance. The CRA requires these ratings to be taken into account when banks apply for branches, mergers, and acquisitions, among other things.

While federal bank regulators typically engage in joint CRA rulemaking, the OCC on June 5, 2020, published a final rule updating its CRA framework that applies only to the banks it directly supervises. On May 18, 2021, the OCC announced that it would reconsider the rule. The OCC initially had different periods of compliance with the final rule and amendments that were generally effective on October 1, 2020. While this reconsideration is ongoing, the OCC stated that it will not object to the suspension of activities related to compliance with later dates. This InFocus discusses how the CRA *presumptive ratings* for a bank would be constructed under the OCC's updated framework that is currently under reconsideration. (On September 21, 2020, the Federal Reserve released an Advanced Notice of Proposed Rulemaking to obtain feedback on its tentative plans to update the CRA framework for the banking entities it supervises. The existing CRA framework that remains in place by the Federal Reserve and the FDIC is discussed in CRS Report R43661, *The Effectiveness of the Community Reinvestment Act*, by Darryl E. Getter.)

OCC Banks Covered by Final Rule

Small and intermediate banks are generally exempted from being evaluated under the OCC's updated framework, but they may opt in. Small banks are defined as having assets of $600 million or less; intermediate banks are defined as having more assets than a small bank but less than $2.5 billion in assets. In the final rule, small banks and intermediate banks may continue to comply with the existing CRA performance standards and receive composite ratings. Large banks, defined as having more than $2.5 billion in assets, must be evaluated under the new general performance standards and receive presumptive ratings.

Regardless of the CRA framework, small and intermediate banks may still use the CRA Illustrative List, which lists "CRA activities" or "qualifying activities" eligible for CRA credit. (The OCC is to provide a CRA illustrative list of activities that would be updated annually and published in the *Federal Register* every three years.) Small and intermediate banks must also delineate their assessment areas under the revised framework. Assessment areas under the revised framework consist of two parts. The first part is a facility-based assessment area, which is based upon a bank's geographical presence where it originates or purchases a substantial portion of its retail loans. If a bank receives 50% or more of its retail domestic deposits from geographic areas outside of its facility-based assessment area, then a second part—a deposit-based assessment area(s) consisting of (non-overlapping) areas where at least 5% of total retail deposits are sourced—is added.

The Revised General Performance Standards and Presumptive Rating

The OCC's updated general performance standards framework consist of three tests: a CRA evaluation test, a retail lending distribution test, and a community development (CD) minimum test. The three test results are compiled to determine the presumptive rating.

The CRA Evaluation Test

The CRA evaluation metric is computed using the formula: ***[(aggregate value of all CRA qualifying activities)/(retail domestic deposits) + 0.01(branches in specified areas)/(total branches)]***. The first ratio in the formula—(aggregate value of all CRA qualifying activities)/(retail domestic deposits)—represents the percentage of a bank's deposits used to support all CRA activities. The numerator consists of the aggregate dollar value of eligible CRA activities—CRA loans, CRA investments, and CRA services, which may (or may not) be included on the CRA Illustrative List—conducted by the bank over the examination period. The denominator consists of domestic retail (non-brokered) deposits. The second ratio represents the bank's social presence and economic impact in targeted areas. The numerator of the ratio consists of a bank's branches in specific areas (e.g., LMI areas, Indian country, underserved areas, and distressed areas). The denominator consists of a bank's total branches. Hence, the second ratio is the percentage of a bank's branches in targeted areas relative to all of its branches. After multiplying the second ratio by 0.01 and adding the product to the first ratio, the sum equals the CRA evaluation measure.

The final rule allows for the use of multipliers to adjust the dollar values of certain CRA activities for various circumstances. The multipliers would be applied to the numerator of the first ratio used in the calculation of the CRA evaluation measure. For example, suppose a bank engages in three CRA activities over the CRA examination period, with one eligible for a multiplier, such that: ***(aggregate value of all CRA qualifying activities) = (value of CRA activity 1) + (value of CRA activity 2) + [(multiplier with values ranging from 2 to 4)*(value of CRA activity 3)]***. The OCC's final rule provides the following guidance with respect to the use of multipliers:

- A bank is not eligible for multipliers until the quantified dollar values of its current-period CD activities are approximately equal to the quantified dollar values of CD activities considered in its prior evaluation period.
- The final rule adds retail loans generated by branches in LMI census tracts and CD services to the list of activities eligible for a two-times (2x) multiplier.
- The final rule includes a 2x multiplier for qualifying activities of minority depository institutions, women's depository institutions, or low-income credit unions to the communities they serve.
- The final rule includes an additional 2x multiplier for qualifying activities in *CRA deserts* (or *hotspots*). A CRA desert is a location where banks do not have a large concentration of deposits. The CRA desert multiplier applies to all CRA activities conducted in a hotspot, and it would be in addition to the multipliers that already apply to certain qualifying activities or generated by a branch in an LMI census tract. A bank must request confirmation from the OCC that an area is a hotspot before it receives a hotspot multiplier.
- The OCC has discretion to increase a multiplier up to 4x its quantified dollar value based upon its evaluation of the responsiveness, innovativeness, or complexity of certain qualifying activities eligible for multipliers.

Multipliers can be used, for example, to provide incentives for banks to make small-dollar loans without penalizing the first ratio component of the CRA evaluation measure. Multipliers, however, may provide incentives to reduce lending activity once banks have met their minimum threshold objectives. Therefore, banks must demonstrate comparable amounts of lending activity from one CRA examination period to the next before applying multipliers.

Retail Lending Distribution Test

For all major retail product lines in a bank's assessment area consisting of at least 20 loans per year, the retail lending distribution test evaluates the geographic distribution of lending in LMI areas and the distribution of lending to LMI borrowers or small businesses or small farms. The minimum threshold of at least 20 loans per year ensures that a certain lending activity is part of a bank's overall business strategy. A bank can pass the test by meeting or exceeding a threshold associated with a demographic or peer comparator. The OCC will establish the demographic and peer comparator numerical values. Its examiners, rather than the banks, will calculate whether a bank passes the retail lending distribution test.

Community Development (CD) Minimum Test

The CD minimum test requires that a ratio—defined as the total amount of CD loans and CD investments divided by a bank's retail domestic deposits—should not be less than 2%. Unlike the first component of the CRA evaluation test, CD services are not included in the numerator; only CD loans and investments are. Under OCC's updated CRA framework, the definition of *CD investments* will be expanded to include banks' legally binding commitments to lend and invest.

The Presumptive Rating

After conducting the three previous performance tests, the scores would be tabulated to assign banks one of the following presumptive ratings:

- *Outstanding*: The average of a bank's annual assessment area CRA evaluation measures meets or exceeds 11% (selected from a range of 11%-15%). A bank meets the established thresholds for all the retail lending distribution tests for its major retail lending product lines in that assessment area. The quantified value of the CD minimum test meets or exceeds 2%.
- *Satisfactory*: The average of a bank's annual assessment area CRA evaluation measures meets or exceeds 6% (selected from a range of 6%-10%). A bank meets the established thresholds for all the retail lending distribution tests for its major retail lending product lines in that assessment area. The quantified value of the CD minimum test meets or exceeds 2%.
- *Needs Improvement*: The average of a bank's annual assessment area CRA evaluation measures meets or exceeds 3%, but the sum of the three evaluation tests falls below 6%.
- *Substantial Non-Compliance*: The average of a bank's annual assessment area CRA evaluation measures is less than 3%.

The OCC generally conducts CRA examinations every three years. The examination for banks with $250 million or less in assets that achieve an outstanding rating is no sooner than 60 months after the most recent examination and no sooner than 48 months after the most recent examination for those that achieve a satisfactory rating.

Additional Resources

OCC, "Community Reinvestment Act Regulations," 85 *Federal Register* 34734-34834, June 5, 2020.

OCC, "CRA Illustrative List," https://www.occ.treas.gov/topics/consumers-and-communities/cra/cra-qualifying-activities.pdf.

OCC, "Community Reinvestment Act: Implementation of the June 2020 Final Rule," *OCC Bulletin* 2021-24, May 18, 2021, https://www.occ.gov/news-issuances/bulletins/2021/bulletin-2021-24.html.

Darryl E. Getter, Specialist in Financial Economics

IF11865

Disclaimer