Statement of CFPB Director Rohit Chopra, FDIC Board Member, on the Notice of Proposed Rulemaking Regarding the Community Reinvestment Act

MAY 05, 2022

Today, the Board of Directors of the Federal Deposit Insurance Corporation is voting to seek public comment on a Notice of Proposed Rulemaking to update the Community Reinvestment Act framework for certain state-chartered banks.[1]

I am voting in favor of the Notice of Proposed Rulemaking, particularly because of the potential it holds to assist rural communities across the country that have been left behind. The proposal also better effectuates Congressional directives intended to ensure that the needs of historically underserved individuals and communities are adequately met. I am optimistic that soliciting public comment on this proposal will generate insights that will lead to a thoughtful final rule.

This effort to update and modernize the Community Reinvestment Act's framework is also a reminder that policymakers need to consider whether nonbank mortgage lenders should also be required to better meet the needs of the communities they serve.

Banking and the Economy

Throughout the history of our Republic, banks have served a critical role in our economy and society. They sit at the heart of our payments system, influence the supply of money, provide the credit families need to purchase homes, and help entrepreneurs turn ideas into new job-creating businesses.

Given their essential role, chartered banks receive substantial public benefits, including access to Federal Reserve System loans, the ability to accept deposits insured by the Federal Deposit Insurance Corporation, and access to other public safety net programs to keep them stable. With these benefits come certain obligations to serve the needs of their communities. The Community Reinvestment Act of 1977 ensures that banks serve the needs of those communities that have been historically excluded from fair and equitable lending.

Banking in Rural America

The United States has long boasted a vibrant and productive agriculture industry,[2] but family farms in rural communities across the country are in severe economic distress.[3] According to the U.S. Department of Agriculture, farmers are capturing a smaller and smaller share of the food dollar – in 2020, they received only 16 cents for every dollar Americans spent on food.[4] Family farms must scrape for every penny, and rural towns and counties are struggling to survive because they can no longer generate the income that they used to.

Without this anchor of wealth creation, many rural counties have suffered economically and have seen population declines, leading many large banks to abandon them at their time of greatest need. The banking landscape created by this banking exodus is one where 65% of existing banking deserts and 81% of potential banking deserts are located in rural areas. According to a report by the Federal Reserve Bank of St. Louis, rural communities are now 10 times more likely to be in a banking desert.[5]

The loss of local banks means the loss of local knowledge of the rhythms of rural communities, small businesses, and small farms – three groups that rely on in-person banking services. Local banks best understand the credit needs of the people and businesses that comprise rural and small-town economies. Rural small businesses, for example, report greater dissatisfaction with the lack of cost transparency of products and services offered by online lenders.[6]

In my view, it is critical that any proposal to update the Community Reinvestment Act's framework should account for the needs of our rural economies.

Noteworthy Features of the Proposed Rule

First, the proposal would improve the Community Reinvestment Act framework's responsiveness to the characteristics and needs of rural communities by expanding large banks' retail assessment areas beyond where they merely have a physical presence to include geographies where they conduct mortgage and small business lending.[7] This will allow for better coverage of rural areas that have experienced substantial branch closures in recent decades.

The proposal also eliminates the distinction between "limited" and "full-scope" assessment areas, which likely limited the Community Reinvestment Act's effectiveness in rural and Native communities in the past. Eliminating this distinction would ensure more rigorous Community Reinvestment Act exams in these communities and lead to increased investment and improved quality and availability of needed retail lending and services.

Under the proposal, banks would also have stronger incentives to finance activities that support very small businesses and farms with $250,000 or less in revenue – the backbone of many rural economies.[8]

In addition, the proposal would increase incentives for banks to finance community development projects in areas experiencing persistent poverty, as well as areas with low levels of past community development financing, including rural communities.[9] The proposal also includes explicit incentives for community development financing and services in Native communities.[10]

Second, the proposal is tailored to adjust obligations based on the asset size of the bank. The updated thresholds, set at $2 billion (cutoff between a "large bank" and an "intermediate bank") and $600 million in assets (cutoff between an "intermediate bank" and a "small bank"), are intended to reflect the differences between banks of varying sizes.[11] Picking specific size thresholds is never easy, and I look forward to receiving the public's views as to whether these proposed cutoffs are calibrated appropriately.

I am pleased that the proposal takes steps to minimize duplicate data reporting by financial institutions. The framework for evaluating banks will continue to rely on the required Home Mortgage Disclosure Act data reporting, and, once a small business lending data collection rule is finalized, the framework will rely on small business lending data reported by financial institutions.[12]

Third, the proposal better reflects congressional intent by more explicitly acknowledging race and ethnicity and creating greater transparency about retail lending. For large banks, the proposal would disclose mortgage lending data broken out by race and ethnicity. The proposal would also enhance incentives for banks to invest in Minority Depository Institutions and Community Development Financial Institutions, and the proposal seeks comment on the role of Special Purpose Credit Programs.[13]

Fourth, the proposal takes steps to address past problems with grade inflation. Currently, almost every bank passes its Community Reinvestment Act exam, and most do so comfortably. Grade inflation disadvantages high-performing institutions, which are lumped in with those with much lower performance but nonetheless pass. The proposal helps to distinguish between banks that are barely passing and banks that are meaningfully above the satisfactory threshold. The proposal raises the bar for institutions to earn an "outstanding" rating.

Fifth, the proposal helps to recognize banks that assist low- and moderate-income communities with clean energy transition and climate resiliency. While higher-income communities can more easily finance capital investments associated with mitigating and adapting to climate risk, many communities, including rural and Native communities, are often left to bear this risk alone. For example, Native families who depend on farming for both subsistence and commercial gain face increasing threats from drought, flood, and rising temperatures, with limited resources at their disposal to invest in climate mitigation solutions.[14]

The proposal would give banks Community Reinvestment Act credit for a range of activities that promote climate resiliency, such as funds to family farmers facing drought conditions, or investments that help family farmers shift to renewable energy sources.

I am particularly eager to evaluate comments on these five aspects of the FDIC's proposal before the rule is finalized.

Future of the Community Reinvestment Act

Banks have obligations under the Community Reinvestment Act because of the significant public benefits they receive. However, I believe it is important to recognize that nonbank financial firms have also received more public benefits in recent decades. This is particularly true in the mortgage market, given the role of mortgage programs administered through the Department of Veterans Affairs, Department of Agriculture, Department of Housing & Urban Development, and government-sponsored enterprises.

In 2020, nonbank mortgage companies originated over 60% of all reported mortgages in the country. [15] Given that the public subsidizes mortgage lending by these nonbanks, federal policymakers should continue to consider ways to ensure all mortgage lenders are serving all qualified applicants, especially in neighborhoods that have been historically excluded.

State policymakers are already moving in this direction. Illinois, Massachusetts, and New York all have laws obligating both banks and nonbanks to meet state Community Reinvestment Act requirements. If policymakers believe that public benefits to banks and nonbanks in the mortgage market should be similar, it seems reasonable to ensure that the public obligations are also similar.

I want to thank all of those who contributed input to date and all of the individuals who worked to prepare this interagency proposal, and I strongly encourage members of the public to provide additional feedback.

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1. This is a joint effort with the Office of the Comptroller of the Currency and the Federal Reserve Board of Governors, which are proposing the same changes for banks under their respective purviews.

2. Eric Njuki. "A Look at Agricultural Productivity Growth in the United States, 1948-2017." USDA Economic Research Service. Jul. 2021. https://www.usda.gov/media/blog/2020/03/05/look-agricultural-productivity-growth-united-states-1948-2017.

3. Kathleen Kassel. "Farming and Farm Income." USDA Economic Research Service. Feb. 2022. https://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/farming-and-farm-income/.

4. Quinton Baker and James Chandler Zachary. "Food Dollar Series." USDA Economic Research Service. Mar. 2022. https://ers.usda.gov/data-products/food-dollar-series/.

5. Drew Dahl and Michelle Franke. "Banking Deserts Become a Concern as Branches Dry Up." Federal Reserve Bank of St. Louis. Jul. 2017. https://www.stlouisfed.org/publications/regional-economist/second-quarter-2017/banking-deserts-become-a-concern-as-branches-dry-up.

6. Andrew Dumont and Amanda Roberts. "Perspectives from Main Street: Bank Branch Access in Rural Communities." Board of Governors of the Federal Reserve System. Nov.

2019 https://www.federalreserve.gov/publications/files/bank-branch-access-in-rural-communities.pdf .

7. Retail Lending Assessment Areas are defined as Metropolitan Statistical Areas or nonmetropolitan areas of a state outside of a bank's Facility-Based Assessment Areas in which the bank originates at least 100 mortgage loans or at least 250 small business loans in each of the preceding two years.

8. Activities that support very small businesses and farms with gross annual revenues of $250,000 or less is a proposed impact review factor under the Community Development Financing Test (including the version for Wholesale or Limited Purpose Banks) and Community Development Services Test.

9. For the qualitative evaluation under the Community Development Financing Test (including the version for Wholesale or Limited Purpose Banks) and the Community Development Services Test, the agencies propose a set of impact review factors. Two of the proposed impact review factors are activities in persistent poverty counties (defined as counties with a poverty rate of at least 20% over each of the last three decades) and areas with low levels of community development financing. The proposal also solicits feedback as to whether high poverty census tracts should be identified as a separate impact review factor.

10. Among other provisions designed to incentivize activities in these communities, activities that support Native Communities is a proposed impact review factor under the Community Development Financing Test (including the version for Wholesale or Limited Purpose Banks) and Community Development Services Test.

11. Large banks (at least $2 billion in assets) would be evaluated under the proposed Retail Lending Test, Community Development Financing Test, Retail Services and Products Test, and Community Development Services Test. A subset of large banks ($10 billion or less but at least $2 billion in assets) would be evaluated under a modified Retail Services and Products Test and would not face certain data and reporting requirements applicable to other large banks. Intermediate banks (less than $2 billion but at least $600 million in assets) would be evaluated under the Retail Lending Test and the current community development test. Small banks (less than $600 million in assets) would continue to face the current small bank performance standards that evaluate retail lending.

12. This small business lending data collection is required by Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. A proposal to implement this data collection was issued in September 2021, and the CFPB is under a court order to make timely progress on this rulemaking.

13. The proposal solicits feedback as to whether Special Purpose Credit Programs should be explicitly listed as an example of a responsive credit product or program that facilitates mortgage and consumer lending targeted to low- or moderate-income borrowers.

14. Rachel Novak, et al. "Fourth National Climate Assessment, Chapter 15, Tribes and Indigenous Peoples." U.S. Global Change Research Program. 2018. https://nca2018.globalchange.gov/chapter/15/ .

15. Feng Liu, et al. "Data Point: 2020 Mortgage Market Activity and Trends." CFPB. Aug. 2021. https://www.consumerfinance.gov/about-us/newsroom/mortgage-refinance-loans-drove-an-increase-in-closed-end-originations-in-2020-new-cfpb-report-finds/.