

Statement by Martin J. Gruenberg, Acting Chairman, FDIC Notice of Proposed Rulemaking on Community Reinvestment Act Regulations

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The Board of Directors of the FDIC, jointly with the Board of Governors of the Federal Reserve System and the Comptroller of the Currency, is today acting on a Notice of Proposed Rulemaking (NPR) to make comprehensive amendments to the Community Reinvestment Act (CRA) regulations.¹

This has been an ambitious undertaking. The changes to CRA being proposed are substantial. They would significantly expand the scope and rigor of CRA, and expand access to credit, investment, and basic banking services in low- and moderate-income communities across the United States. These communities have been the most severely impacted by the COVID-19 pandemic. For that reason, among others, action on this NPR takes on a particular urgency.

The Community Reinvestment Act seeks to address one of the most intractable challenges of our financial markets – access to credit, investment, and basic banking services for low- and moderate-income communities, both urban and rural.

CRA was a response to the redlining practices of government housing programs and private sector lending institutions that denied credit to neighborhoods with poorer households and large minority populations.

The provisions of CRA as originally enacted in 1977² were deceptively simple but groundbreaking.

The key operative provision of the Act states, “In connection with its examination of a financial institution, the appropriate Federal financial supervisory agency shall ... assess the institution’s record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods....”³

Since its enactment, CRA has become the foundation of responsible finance for low- and moderate-income communities in the United States.

The rule implementing CRA has not undergone a major revision since 1995. The banking industry has evolved dramatically over that time. Today's NPR is an effort to adapt CRA to that evolution and to strengthen and enhance its effectiveness in achieving its core mission.

There is a lot in this NPR. I would like to focus today briefly on three key elements of the proposed rule.

First, the NPR would establish new retail lending assessment areas to allow for CRA evaluation in communities where a bank may be engaging in significant lending activity but where the bank does not have a branch.

Currently, CRA assessment areas are tied to bank branches. Bank lending in communities in which the bank does not have a physical presence is generally not subject to CRA. While bank branches continue to play a critical role in serving communities, technology has made possible an increasing portion of bank lending activity unrelated to the branch network. Some banks have only one branch or no branch at all, yet engage in large scale lending.

These new retail lending assessment areas are a means of subjecting that lending activity to a CRA review. They represent a critically important adaptation of CRA to the changing nature of the banking business.

In addition, under the new community development test in the NPR, a bank could earn community development credit under the CRA evaluation for activity outside of the traditional branch-based assessment areas. This provides an incentive for bank activity in rural communities, Native lands, areas of persistent poverty, and underserved areas – so-called credit deserts.

Second, this NPR would raise the bar for CRA performance on the retail lending test in order for a bank to earn an outstanding or high satisfactory rating. The NPR incorporates detailed metrics on bank lending activity. As a result, the NPR is able to establish standards for bank performance to achieve a particular CRA rating that would be higher than past experience. The objective here is to provide an incentive for increased bank lending to underserved communities.

Third, the availability of metrics will allow for greater transparency and certainty for banking institutions in meeting their CRA responsibilities under the retail lending and services tests and the community development financing and services tests. This is an objective on which the banking industry has placed a high value. Further,

the NPR is tailored to the size and complexity of banking institutions with differential standards for small, intermediate, and large institutions.

In addition to these three core elements of the NPR, the proposed rule provides greater transparency on lending to communities of color utilizing publicly available information. It also provides enhanced incentives for bank collaboration with minority depository institutions and community development financial institutions, bank investments in disaster preparedness and climate resilience in low- and moderate-income neighborhoods, and bank lending, investment, and services in rural communities and Native lands.

Taken together this Notice of Proposed Rulemaking represents a major revision of CRA intended to strengthen its impact and increase its transparency and predictability. The three banking agencies look forward to the extensive public comment we expect to receive from all interested stakeholders.

I would like to acknowledge the leadership of Federal Reserve Governor Lael Brainard and the Federal Reserve staff in this effort. The Advanced Notice of Proposed Rulemaking (ANPR) on CRA issued by the Federal Reserve last year⁴ served as the blueprint for today's rulemaking, and that leadership was carried forward in developing the NPR.

I also want to acknowledge the contributions and commitment of Acting Comptroller Hsu and the staff of the OCC.

Finally, I would like to give particular recognition to the staff of the FDIC, for whom this rulemaking was a labor of love with a bit of stress along the way.

Thank you very much.

¹ 12 CFR Part 345 of the FDIC's regulations, available at <https://www.ecfr.gov/current/title-12/chapter-III/subchapter-B/part-345>.

² Pub. L. 95-128, title VIII, October 12, 1977, 91 Stat. 1147, available at <https://www.govinfo.gov/content/pkg/STATUTE-91/pdf/STATUTE-91-Pg1111.pdf>.

³ *Id.* at section 802.

⁴ See <https://www.ecfr.gov/current/title-12/chapter-III/subchapter-B/part-345>.