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Cheat sheet: 5 pressure points in CRA reform debate

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WASHINGTON — The Office of the Comptroller of the Currency is asking the public dozens of questions about how banks should be graded on their lending to communities in need.

The answers that bankers, consumer groups and others provide in response to the "advance notice of proposed rulemaking" could ultimately help regulators settle on a plan finally for revamping Community Reinvestment Act policy. The document is divided into five sections that are key topic areas for reform discussions.

Stakeholders of all stripes agree the 40-year-old law, meant to encourage banks to lend in low- and moderate-income communities and prevent discrimination, needs an update.

But how to modernize the CRA has long triggered intense debate and disagreement among all the parties as banks favor expanding CRA assessment areas and consumer groups worry that a broad expansion would simply make it easier for banks to score high

CRA grades.

Comptroller of the Currency Joseph Otting “has said he wants to improve CRA, and if he does so in ways that increase lending and investments to low- and moderate-income communities, we will be the first to applaud it,” Jesse Van Tol, chief executive of the National Community Reinvestment Coalition, said in a statement. “But I have very serious concerns about the ideas contained in the ANPR. As always, the devil is in the details.”

The OCC’s questions are detailed and cover a wide range of aspects dealing with CRA requirements, ranging from which types of areas and loans should get CRA credit to revamping how banks are graded. The following is a summary of the 31 questions.

Effectiveness of the current CRA regulatory framework

The first six questions the OCC poses are largely about whether the current CRA regulations are easy to understand, clear and fair. This is an area where many parties agree that the system needs at least an update.

“For years, outdated rules, a lack of transparency and inconsistent examinations have limited the effectiveness of the CRA,” Rob Nichols, president and CEO of the American

Bankers Association, said in a statement. “The current framework is holding back investment in communities the law is intended to serve, while failing to account for significant innovations in the banking sector, including the opportunities presented by mobile technologies.”

Consumer groups are open to changes but are far more cautious in that they want any changes to be directed to lending for communities in need.

“Any changes to CRA should retain a focus on community participation, identification of local needs, and promote community benefit agreements with banks,” Elba Schildcrout, director of community wealth at East LA Community Corp., said in a statement.

Among the questions offered to the public in this section is whether the current CRA framework meets two goals of the law: helping banks serve the convenience of their entire communities and encouraging lending and other services in low- and moderate-income neighborhoods.

The OCC also asks which parts of the existing CRA requirements regulators should keep if it moves forward on changes.

Changing how banks are measured under CRA

In the second section, the OCC poses a handful of questions on how regulators should grade banks for CRA if the agencies adopt a more metrics-based approach, such as looking at the dollar value of community development lending against a bank’s total assets.

The OCC is asking the public what benchmarks should be used in such an assessment and how to include other factors like a bank's business model, branch structures and community involvement in the calculation.

"I'm open to people's thoughts through this process . . . but I do believe that if we can get to something that would be measurable, I think that would be a successful conclusion in my mind," Comptroller of the Currency Joseph Otting said during an Aug. 28 call with reporters.

The agency also asks how to apply different weights for certain activities qualifying for CRA credit in a metric-based approach. "For example, should a $1 loan product count as $1 in the aggregate, while a $1 CD equity investment count as $2 in the aggregate?"

Another question was whether additional weight should be given for community development activities that are not quantified by dollar value. "For example, a bank could calculate the value of 1,000 hours of volunteer work by multiplying it by an average labor rate and then include that number in the aggregate total value of its CRA activity."

Redefining CRA credit assessment areas

One area likely to strike debate is whether the regulators should redefine which communities count as the "assessment area" for a bank's CRA performance. Currently, banks get the most CRA credit for lending in the areas around their deposit-taking ATMs or branches.

Here, commenters were asked whether assessment areas could be expanded to communities that are tied to the bank’s operation, where it might be lending, but does not have a branch. Those areas that are in great need of banking services often fall outside of a CRA assessment area. They are typically called “CRA deserts.”

“There are often areas in critical, critical need that are close to assessment areas but banks cannot support,” Otting said. “A lot of people have said, 'Well, maybe you don’t walk away from assessment areas, but you give banks the flexibility of some percentage of their dollars going to these, what they call, CRA deserts.' "

Consumer groups, however, have raised concerns that expanding assessment areas would challenge banks' ability to focus their CRA resources on the neighborhoods that need the most attention.

“The OCC expresses desire to broaden the scope of assessment areas in evaluating a bank’s footprint, as well as expanding the universe of activities that are eligible for CRA credit,” four California community groups said in a written statement. “However, with over 96% of banks already receiving high scores on CRA exams, it is unnecessary to dilute CRA even more.”

Expanding the list of qualifying CRA activities

One of the hottest areas of contention is whether regulators should expand the types of lending activities that get credit under the CRA. Currently, banks get CRA credit for retail and community development loans that mostly target low-to-moderate-income areas.

The OCC is asking how those credits should be redefined and whether consideration should be given to other areas, like auto loans, affordable small-dollar credit and small-business loans that support communities in need.

“I would like to see the small business lending restrictions get lifted,” Otting said.

He also signaled interest in allowing credit for partnering with religious organizations to offer financial assistance to low-income residents.

But consumer groups are opposed to most of these proposed expansions of qualifying activities, arguing it would simply make it easier for banks to pass CRA exams.

“If the OCC ultimately proposes one metric that is determinative of a bank’s CRA grade, then the end result will undoubtedly be less responsiveness to local community needs,” Van Tol of the National Community Reinvestment Coalition said. “Additionally, broadening what qualifies for CRA credit is an opening to count more of what banks already do, while decreasing their traditional CRA activities.”

Recordkeeping and reporting

The last section of questions addressed concerns that the current CRA framework does not allow stakeholders to track, monitor and compare banks' CRA performance.

The OCC asked whether regular reporting of CRA data under a metrics-based approach "could better support the tracking, monitoring, and comparison of CRA performance levels." The agency also asked how often should banks report CRA activity data in order for the OCC to evaluate performance.

Another question inquired on the annual costs related to CRA data collection, record keeping and reporting, in terms of dollars and staff hours.

"One advantage of a modernized CRA framework that uses objective reportable metrics could be to allow for better tracking by banks of their overall CRA level of performance on a regular, periodic basis," the agency said.