RESCINDED

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Transmittal rescinded.

Community Reinvestment Act: Notice of Proposed Rulemaking

To

Chief Executive Officers of All National Banks, Federal and State Savings Associations, and Federal Branches and Agencies; Department and Division Heads; All Examining Personnel; and Other Interested Parties

Summary

The Office of the Comptroller of the Currency (OCC) issued a proposed rule and request for comment on its proposed approach to determine the Community Reinvestment Act (CRA) evaluation measure benchmarks, retail lending distribution test thresholds, and community development minimums under the June 2020 CRA final rule's (2020 final rule)[1] general performance standards. The proposal also explains how the OCC would treat significant declines in CRA activities levels in connection with performance context following the establishment of

the benchmarks, thresholds, and minimums. Further, the proposed rule would make clarifying and technical amendments to the 2020 final rule.

Note for Community Banks

The CRA's general performance standards apply to national banks and federal and state savings associations (collectively, banks) with more than $2.5 billion in assets that are not evaluated under a strategic plan and that are not wholesale or limited purpose banks. Small, intermediate, wholesale, and limited purpose banks can also opt into and elect to be evaluated under the general performance standards. Accordingly, the proposal's provisions regarding the general performance standards apply only to community banks with assets greater than $2.5 billion or those that opt into and elect to be evaluated under the general performance standards. Further, the proposal's clarifying and technical amendments would apply to community banks to the extent that the amendments affect sections of the 2020 final rule that are applicable to those banks.

Highlights

- Under the proposed rule, the OCC would calculate historical CRA activity levels and corresponding performance ratings under the general performance standards had they been in place. Further, under the proposal, based on additional data analysis and consideration of public comments, the OCC would set the CRA evaluation measure benchmarks, retail lending distribution test thresholds, and community development minimums such that the proportion of banks that would have received presumptive ratings of outstanding and satisfactory under the general performance standards would be no greater than the historical proportion of banks that received assigned ratings of outstanding and satisfactory under the previous CRA regulations.

- The proposed rule also provides that a precipitous decrease in CRA activities would be considered as part of the assessment of performance context. Specifically, under the proposed rule, the OCC would consider to be precipitous, a decline of 10 percent or greater in a bank's performance on the general performance standards as calculated based on historical data between the establishment of the objective benchmarks, thresholds, and minimums and the bank's first evaluation under the general performance standards. Under the proposal, such a decline that could not be explained by market conditions or other performance context factors may warrant a downward adjustment in the OCC's determination of the bank's assigned rating.
- The OCC is also proposing to make clarifying and technical edits to the 2020 final rule.

Background

- In the 2020 final rule, the OCC updated the regulatory framework implementing the CRA for national banks and federal and state savings associations (collectively, banks). The final rule (1) clarified and expanded the bank lending, investment, and services that qualify for CRA consideration; (2) updated how banks delineate the assessment areas in which they are evaluated; (3) provided additional methods for evaluating CRA performance in a consistent and objective manner; and (4) required reporting that is timely and transparent.
- Under the 2020 final rule, banks subject to the general performance standards will be evaluated based on (1) the distribution of their retail loans (i.e., home mortgage loans, small loans to businesses, small loans to farms, and consumer loans) (retail lending distribution tests); (2) the quantified dollar value of their qualifying activities and the distribution of their branches in each assessment area and at the bank level (CRA evaluation measure); and (3) the level of their community development activities in each assessment area and at the bank level (community development minimum).

- In the preamble to the 2020 final rule, the OCC indicated that it would issue a proposal that would explain the process the OCC would engage in to calibrate the requirements for each of the three components of the objective evaluation framework (i.e., the CRA evaluation measure benchmarks, retail lending distribution test thresholds, and community development minimums). This proposal requests comment on the agency's approach to determine these objective benchmarks, thresholds, and minimums.
- In addition to seeking public comment on this proposal, the OCC plans to obtain data through a separate information collection survey from banks subject to the general performance standards that will be considered in the calibration of the CRA evaluation measure benchmarks, retail lending distribution test thresholds, and community development minimums.

Further Information

Please contact Ioan Voicu, Director, Compliance Risk Analysis Division, at (202) 649-5550; or Daniel Borman, Senior Attorney, or Jean Xiao, Attorney, Chief Counsel's Office, at (202) 649-5490.

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Related Link

- Community Reinvestment Act Regulations (PDF)

[1] 85 Fed. Reg. 34734.

Topic(s): ▪ COMMUNITY REINVESTMENT ACT (CRA)