



March 9, 2020

RE: Notice of Proposed Rulemaking, Community Reinvestment Act Regulations

To Whom it May Concern:

The Ability Center of Greater Toledo (ACT) opposes the proposed changes to the Community Reinvestment Act (CRA) regulations as deeply misconceived. The OCC and FDIC would lessen the public accountability of banks to their communities by enacting unclear performance measures on CRA exams that would not accurately measure a bank's responsiveness to local needs. Contrary to the agencies' assertions that their changes would increase clarity and CRA activity, the result will be significantly fewer loans, investments and services to low- and moderate-income communities (LMI). As an agency, we have a number of concerns about the proposed rulemaking, which we have outlined below.

ACT works primarily with populations with disabilities and aging adults. A core component of ACT's mission is to help people with disabilities to live independently within the community. According to a 2009 study by the Center for Economic and Policy Research, "half of all working-age adults experiencing income poverty have a disability."<sup>1</sup> By increasing the range of income levels banks can serve to satisfy their CRA requirements, it reduces the chance that people with disabilities will have their financial service needs met by banks within their communities. With less of a mandate for banks to serve low income individuals, many people's dreams of owning their own homes or escaping from poverty and living independently within the community go up in smoke.

The proposed rule would dramatically lessen CRA's focus on LMI communities in contradiction to the intent of the law to address redlining. The definition of affordable housing would be relaxed to include middle-income housing in high cost areas. In addition, the Notice of Proposed Rulemaking (NPRM) would count rental housing as affordable if lower-income people could afford to pay the rent without verifying that lower-income people would be tenants. Many people with disabilities already struggle to find accessible housing and one of the few ways units are established that can fit their needs are through programs that build new multifamily housing complexes that are covered under the Fair Housing Act. By allowing more money to leave low-income areas in low-cost communities, there will be even less development of accessible housing in areas that many people with disabilities will be able to afford to live. People with disabilities tend to be limited to a fixed income that makes it unrealistic to live in high cost neighborhoods, as it often is not even enough to afford a one-bedroom apartment without further assistance.<sup>2</sup>

The NPRM would add financing large infrastructure such as bridges as a CRA eligible activity. Even financing "athletic" stadiums in Opportunity Zones would be an eligible activity. The

---

<sup>1</sup> <https://www.cepr.net/documents/publications/poverty-disability-2009-09.pdf>

<sup>2</sup> <https://www.accessliving.org/defending-our-rights/accessible-affordable-integrated-housing/>



# The Ability Center

NPRM would define small businesses and farms as having higher revenues, increasing the limit from \$1 million to \$2 million for small businesses and as high as \$10 million for family farms.

While we recognize changes in the banking industry such as the increased use of online banking, the NPRM's reforms to the geographical areas on CRA exams are problematic and would reduce transparency. Neither the agencies nor the public can evaluate the agencies' proposal to designate additional geographical areas on exams in the case of internet banks due to the lack of publicly available data. The public does not have a fair chance to offer comments on the effectiveness of significant proposed changes whose impacts are unknown.

The agencies propose an evaluation system that would further inflate ratings while decreasing the responsiveness of banks to local needs. The agencies propose a one ratio measure that would consist of the dollar amount of CRA activities divided by deposits. This ratio measure would likely encourage banks to find the largest and easiest deals anywhere in the country, as opposed to focusing on local needs. Since banks could fail in one half of the areas on their exams and still pass under the proposal, the likelihood of banks seeking large and easy deals anywhere would increase. Also, the proposal would relax requirements that banks serve areas where they have branches first before they can seek deals elsewhere. This would most likely reduce the amount of small business loans given out to LMI community members as a direct result since it would not bolster their evaluation score as much as larger deals may. According to data from 2016, the ten largest banks accounted for 78% of the total CRA small-business loans given out.<sup>3</sup> These same large banks are the ones with the resources to do a small amount of large investments instead of a large amount of small loans. Under the proposed CRA rules that is exactly what will happen, and LMI small businesses will no longer have access to the funds needed to grow.

The proposal would retain a retail test that examines home, small business and consumer lending to LMI borrowers and communities, but this retail test would only be pass or fail. In contrast, the current retail test has ratings that count for much more of the overall rating. Moreover, the proposal would result in branch closures since it would eliminate the test that scrutinizes bank branching and provision of deposit accounts to LMI customers.

The proposed rule would allow banks that receive Outstanding ratings to be subject to exams every five years instead of the current two to three years. This would result in banks not making much effort in the early years of an exam cycle to serve their communities.

Finally, small banks with assets less than \$500 million could opt for their current streamlined exams instead of the new exams. The new exams would require banks to engage in community development financing while the existing small bank exams do not. This is another loss for communities.

Instead of weakening CRA, this administration must enact reforms that would increase bank activity in underserved neighborhoods. We cannot address persistent racial disparities in lending by strengthening the fair lending reviews on CRA exams or adding an examination of bank activity to communities of color in CRA exams. At the very least, this administration could add a

---

<sup>3</sup> <https://www.urban.org/urban-wire/small-business-and-community-development-lending-are-key-cra-compliance-most-banks>



# The Ability Center

category on CRA exams of underserved census tracts, which would likely include a high number of communities of color. The proposed rules also require banks to collect more data on consumer lending and community development activities but do not require banks to publicly release this data on a county or census tract level. Finally, the proposed rules do not require mandatory inclusion on exams of bank mortgage company affiliates, many of whom engaged in abusive lending during the financial crisis.

This deeply flawed proposal would result in less lending, investing and services for communities that were the focus of Congressional passage of CRA in 1977. This backtracking will violate the agencies' obligation under the statute to ensure that banks are continually serving community needs. The FDIC and OCC need to discard the NPRM, and instead work with the Federal Reserve Board and propose an interagency rule that will augment the progress achieved under CRA instead of reversing it.

Sincerely,

Jimmy Russell  
Disability Rights Advocate  
The Ability Center of Greater Toledo