CRA Proposal Draws Concerns from Affordable Housing Leaders

The plan would make changes to assessment boundaries and how banks are evaluated.

By Donna Kimura, Affordable Housing Finance, December 13, 2019

A proposal to overhaul the longstanding Community Reinvestment Act (CRA) could pose new risks for community development investments.

The plan released by federal regulators Thursday is raising significant concerns for affordable housing and civil rights leaders who fear the proposal will weaken the CRA's original purpose of expanding financial opportunity and spurring investment in underserved areas.

"Instead, the proposal's overly simplistic metrics create a loophole for banks to exploit, allowing them to get a passing CRA rating by making investments in communities where they can reap the largest rewards, while excluding underserved consumers and neighborhoods where their investments could have a much-needed impact," said leaders at the National Community Reinvestment Coalition and nine other organizations in a joint statement. "It invites a return to discrimination against communities of color and low- and moderate-income neighborhoods, a destructive, decades-old process known as redlining that the law was designed to end forever. The proposed rules are inconsistent with the law, plain and simple."

Regulators say the proposal seeks to encourage banks to conduct more CRA activities by expanding the scope of activities that would qualify for CRA credit, including loans in Indian country. Among other moves, the Federal Deposit Insurance Corp. (FDIC) and Office of the Comptroller of the Currency (OCC) would publish an illustrative list of qualifying activities and establish a process for stakeholders to confirm whether an activity would receive CRA credit. Here is a fact sheet prepared by the agencies.

One of the ways that banks meet their CRA obligations is by funding affordable housing, and they've been the main investors in the low-income housing tax credit, the nation's most important financial tool for developing and preserving affordable housing. However, the proposal presents concerns for affordable housing, says Benson "Buzz" Roberts, president and CEO of the National Association of Affordable Housing Lenders.

Under current CRA rules, affordable housing and other community development activities get a lot of attention. Under the current investment test, community development investments count for 25% of the entire CRA rating. In addition to that, as part of the lending test, community development lending can either help or hurt a bank, according to Roberts.

"Under the proposal, community development activities generally are only part of the overall CRA evaluation metric, and so they are counted along with everything else that a bank may be doing—small business lending, mortgage lending, consumer lending," he says. "You're talking about fairly large numerators and very large denominators. The question will be will banks be able to hit their targets without having to do difficult or complex affordable housing or community development activities. That's an unknown at this point, but it does pose a significant risk for affordable housing and community development."

Among the proposals is a new 50% and 5% breakdown. If a bank receives more than half of its deposits outside of its branch footprint, the institution would be required to analyze the locations of its depositors. Any zone found to have a concentration of more than 5% of the bank's deposits would be considered a new CRA assessment area, requiring the institution to invest in that area.

The proposal aims to give banks flexibility to make loans based on where their borrowers are based rather than where they have physical branches. However, the results remain to be seen.

It's likely going to favor New York and Los Angeles and perhaps high-population states like California and New York because that's where people live and are generally the places that are going to generate the requisite deposit levels, according to Roberts.

There's also concern that this proposal would allow banks to target most desirable and lucrative deals outside of their communities while skipping their local areas.

David M. Dworkin, president and CEO of the National Housing Conference, also raised concerns about the proposal from the FDIC and the OCC. The Federal Reserve, which regulates some banks, has yet to get behind the plan.

"There is no question that CRA needs to be modernized, but the proposed approach is the wrong way to do it," Dworkin said in a statement. "After more than a year of consideration and 1,500 comment letters, the OCC and FDIC have come up with a formula-driven approach that almost nobody in the housing community supports and is rife with millions of dollars in hidden costs and enormous unintended consequences. This is a missed opportunity."

The public has 60 days to comment on the proposal. Dworkin and others have called for extending that period to 120 days. "Anything this important requires careful consideration and time to prepare detailed and thoughtful recommendations," he said.

Community development officials will be digging further into the proposal, which was more than 200 pages, in the days ahead.