

## Regulators 'Full Steam Ahead' on Cra Reform Despite Coronavirus Pandemic

By Brendan Pedersen, American Banker, April 8, 2020

WASHINGTON — The Office of the Comptroller of the Currency is plowing ahead on Community Reinvestment Act reform, drawing pushback from leaders of banking and community groups who say their members and regulators should be focused on emergency coronavirus relief.

The comment deadline on the CRA proposal issued by the OCC and the Federal Deposit Insurance Corp. was set to expire Wednesday, and there was no sign of an extension. In fact, Comptroller of the Currency Joseph Otting said in a statement emailed to American Banker on Monday that "slowing the rulemaking would only delay relief and support that communities across the country need."

"Modernization would bring valuable additional resources to communities across America that are currently underserved by the current regime," Otting said. "Further delay will prevent these additional resources from reaching those who need them most in this time of national emergency."

Several groups have urged the agencies to allow extra time for comment as community advocates and bankers focus on mitigating the economic fallout from the pandemic.

"Moving forward on CRA modernization now, in the light of this crisis, is breathtakingly irresponsible," said David Dworkin, president and CEO of the National Housing Conference. "I'm as strong a supporter of CRA modernization as anyone — it's essential — but it has to be done right. And we have no idea what our communities are going to look like a year from now, or what needs they'll have after this."

Democrats on the House Financial Services Committee on Wednesday urged Otting and FDIC Chairman Jelena McWilliams to suspend CRA reform and other rulemaking efforts. In the case of the CRA proposal, the lawmakers — in a letter signed by all 34 of the committee's Democrats — cited the need to focus on the pandemic as well as the plan's "misguided approach."

After the health emergency has subsided, a new CRA plan should be drafted with the Federal Reserve "that is consistent with the purpose of the Community Reinvestment Act," the letter said.

Financial regulators have delayed other significant rulemakings in response to COVID-19. For example, the FDIC has extended the comment period on its proposal to update brokered deposit regulations.

Warren Traiger, a senior counsel at the law firm Buckley who advises lenders on CRA issues, argued that a comment extension is unnecessary given how long the public has

had to weigh in. "This proposal has been out since December, meaning stakeholders have had four months to consider and provide comments at this point," he said.

At the same time, regulators might need to take time to reevaluate their notice of proposed rulemaking in light of the pandemic, he said. "The NPR was obviously constructed, painstakingly, before the coronavirus crisis," Traiger said. "It doesn't take into account what everyone expects will be the significant impact of the crisis on the overall economy."

"Among banks, the consensus seems to be: Let's temporarily suspend finalizing this rulemaking," Traiger said. "Let's see how things play out."

Others say that driving forward a rule as complex as this one during a crisis would be wrong even if the proposal was uncontroversial.

"We think the basic evaluation structure is really flawed, and the agencies really need to take a step back and work with everyone to figure out how it should work," said Buzz Roberts, president and CEO of the National Association of Affordable Housing Lenders. "But all the stakeholders involved in this, including banks and their community partners, are completely preoccupied right now with responding to the COVID-19 crisis. After that, they'll be preoccupied with the economic recovery."

"To me, community investment is about the most important thing in the world," Roberts said. "But the whole process needs to be put on hold until conditions stabilize."

### **Final rule by summer?**

The proposal was unveiled in mid-December and published in the Federal Register on Jan. 9. The comment period was extended once, by 30 days.

Regulators have said repeatedly in recent weeks that they have no intention of delaying the [sweeping effort to remake the CRA](#). For months, the goal among agency staff, according to officials from the OCC and FDIC who spoke on condition of anonymity, has been to present the FDIC board with a final version of the rulemaking in early to midsummer.

If the comment period ends Wednesday as scheduled, regulators would have roughly two or three months to review what will likely be thousands of comments. But some officials have said privately that timetable is ambitious given that reviewing comments and weighing changes can take months of arduous interagency work in the best of times.

Moreover, one OCC official with knowledge of the situation said that in recent days, FDIC staffers have told OCC staffers that the FDIC's work on CRA could be delayed because employees from across the agency were being pulled from their regular duties to develop COVID-19 policy.

But an FDIC spokesperson on Monday disputed that notion, stating that no personnel or resources have been pulled from CRA reform efforts in response to the pandemic. The agency also said its staff is accustomed to operating in times of crisis and has the capacity to address both COVID-19 and their typical responsibilities.

OCC staffers have noted in recent days that the agency's leadership had confirmed internally that the agency is not adjusting its timeline.

In other words, the agency is "full steam ahead," the OCC official said.

### **The case for a pause**

Community groups and community banks have asked regulators to delay the CRA and other rules while their members grapple with the effects of COVID-19.

Just last week, the Independent Community Bankers of America wrote a letter to regulators asking them [to delay several proposals](#), with CRA reform at the top of the list. "Combating the COVID-19 crisis demands the full attention and all available resources from the public, from state, local, and federal government entities, as well as all industries, including the vital financial services industry," ICBA CEO Rebeca Romero Rainey wrote to seven agencies last week.

Less than a week later, however, an ICBA spokesperson told American Banker that "it's unlikely that Comptroller Otting will delay the CRA comment period."

Community activists say it will be difficult for organizations that had not yet submitted comment letters to finish them.

"Every community group across the country has been affected in terms of their ability to comment on rulemaking," said Jesse Van Tol, CEO of the National Community Reinvestment Coalition. "There are organizations out there that don't have laptops — they use desktop computers that are pre-webcam, even pre-word processing."

To press forward during a global pandemic is "beyond tone deaf," Van Tol said.

Community development financial institutions that specialize in connecting community groups with CRA-related bank funding say they face similar challenges.

"Now is not the time to upend the existing infrastructure around CRA," said Dafina Williams, vice president of public policy at the Opportunity Finance Network. "What banks need now is certainty so that they can step up and use all their known channels to get capital onto the streets."

"We need the stability of the existing framework," Williams said. "If banks are told they need to suddenly do everything differently in this area, that's attention and resources being pulled away from their partners and other organizations trying to get money out there now."

*Updated: Adds paragraphs six and seven regarding letter from House Financial Services Committee Democrats*