Industry Stakeholders Back Fed's Plan to Revisit CRA

By Yemeng Yang, Inside Mortgage Finance, September 24, 2020

The Federal Reserve's proposed changes to revamp the decades-old Community Reinvestment Act have been welcomed by both industry representatives and consumer advocacy groups.

In an advance notice of proposed rulemaking issued on Monday, the Fed introduced a new framework to evaluate large retail banks' mortgage lending performance: a retail test and a community development benchmark.

The retail lending test would include two metrics to calculate the percentage of a bank's loans made to borrowers in low- and moderate-income census tracts and distribution by different income and revenue levels. The proposal suggests using loan counts, rather than dollar volume, in the two metrics, which "would treat different-sized loans equally within product categories."

"It's a really promising proposal," said Buzz Roberts, president and CEO of the National Association of Affordable Housing Lenders. "It could really mark a turning point in the direction of CRA policy that would work much better for banks and communities at large."

The Fed's proposal, approved unanimously by its board members, is in many ways at odds with the final CRA rule issued by the Office of the Comptroller of the Currency in May. However, the Fed expressed willingness to cooperate with other banking regulators to work out a joint plan.

"By reflecting stakeholder views and providing a long period for public comment, the [proposed rulemaking] is intended to build a foundation for banking agencies to converge on a consistent approach to strengthening the CRA that has broad support among stakeholders," Governor Lael Brainard, who spearheaded the Fed's CRA efforts, said at an Urban Institute event this week.

"There will be more emphasis on mortgage lending under the Fed's plan … under the OCC's approach, mortgage lending folds into a much broader range of activity that determines the CRA rating," said Roberts.

As for the treatment of mortgage-backed securities for CRA purposes, the Fed said it is contemplating an appropriate approach. The regulator acknowledged that issuance of qualifying MBS can improve liquidity for lenders that make home mortgage loans to LMI borrowers and encourage such lending, but the central bank also noted concerns by some stakeholders that some depositories are too reliant on purchases of qualifying MBS rather than pursuing more impactful community development activities.

In addition, the Fed seeks to minimize data collection burdens on banks. In contrast, the OCC rule requires a significant amount of additional data collection to facilitate the performance measurement.

The Fed is seeking feedback from stakeholders on its framework. Comments are due 120 days after publication in the Federal Register.

“[The proposed rulemaking] is an important step toward modernizing the [CRA] in a manner that benefits communities and provides banks with regulatory clarity going forward,” Rob Nichols, president of the American Bankers Association, said in a statement. “While we are still reviewing the [proposal] with our members, we appreciate the Fed’s measured, research-based approach to formulating this critically important rule.”

Community groups that have strongly opposed the OCC’s final rule said the Fed’s proposal is “an encouraging step” to address discrimination and develop LMI communities. Jesse Van Tol, CEO of the National Community Reinvestment Coalition, said: “Unlike the OCC … the Fed has focused on transparent data analysis and qualitative measures of impact on communities, rather than on simplistic formulas that are easy to manipulate.”

Still, stakeholders are pushing for interagency cooperation towards a unified CRA framework.

“Public input and discourse fuels continuous improvement, and we look forward to reviewing the comments for insight into our own rulemaking that applies to national banks and savings associations,” acting Comptroller of the Currency Brian Brooks said in a statement.