

OCC Proposes Rescission of June 2020 CRA Rulemaking and Releases FAQs

WRITTEN BY

Kristopher P. Henman | James W. Stevens | Chelsea M. MacArthur

The Office of the Comptroller of the Currency (OCC) issued a [proposal](#) to rescind its June 2020 Community Reinvestment Act (CRA) rulemaking and replace it with previous rules jointly adopted by the OCC, the Federal Reserve Board (FRB), the FDIC, and the former Office of Thrift Supervision in 1995. Last year, although the OCC and the FDIC published a joint notice of proposed rulemaking, the FDIC did not ultimately join with the OCC in the June 2020 CRA rulemaking.

The current OCC proposal seeks to create consistency for all insured depository institutions by returning to the 1995 framework, while also strengthening and modernizing the CRA by re-opening the door to joint action between the OCC, FRB, and the FDIC. In an [interagency statement](#), the OCC, FRB, and the FDIC indicated their commitment to work together on developing a joint notice of proposed CRA rulemaking to ensure a modernized framework exists for insured depository institutions to “help meet the credit needs of the communities in which they do business, including low- and moderate-income neighborhoods.”

In September 2020, the FRB issued an [advance notice of proposed CRA rulemaking](#) (FRB Notice), which the Acting Comptroller Michael J. Hsu [said](#) will establish the framework for any joint rulemaking going forward. The FRB Notice sets forth the following objectives: (1) to more effectively meet the needs of low- and moderate-income communities and address inequalities in credit access; (2) to increase the clarity, consistency, and transparency of CRA evaluations; (3) to tailor CRA supervision based on the differences in bank sizes and business models, local markets, and business cycles; (4) to update standards in light of changes to banking involving the use of mobile and internet delivery channels; (5) to promote community engagement; and (6) to recognize that CRA and fair lending responsibilities are mutually reinforcing. In addition, both the FRB Notice and Mr. Hsu cited the disproportionate economic impact the COVID-19 pandemic has on low- and moderate-income communities and households as additional evidence of the need for joint rulemaking to further strengthen the CRA.

On October 26, the OCC issued a set of frequently asked questions (FAQs) regarding the proposed rulemaking. Among other topics, these FAQs address (1) bank type determinations, which will not change unless and until a replacement rule is implemented; (2) qualifying activities, which will receive CRA consideration, so long as the activity is conducted while the June 2020 CRA rulemaking is still in effect; and (3) strategic plans, which the OCC proposes to allow banks to maintain going forward as consistent with the 1995 rules. The OCC also indicates that its next steps will be to consider the public comments due on October 29, and then make final determinations on how to proceed.

The OCC anticipates that the proposal to rescind the June 2020 CRA rulemaking will have a limited impact on

national banks and federal and state savings associations, as the June 2020 CRA rulemaking has yet to be fully implemented and many of the 1995 rules are still in effect. Based on this proposal, the OCC's rulemaking will be published by December 1 with a proposed effective date of January 1, 2022.

RELATED INDUSTRIES + PRACTICES

- [Banking + Financial Services Regulation](#)
- [Fair Lending](#)
- [Financial Services](#)