

Bank Expo 2021

Community Reinvestment Act Updates and Issues

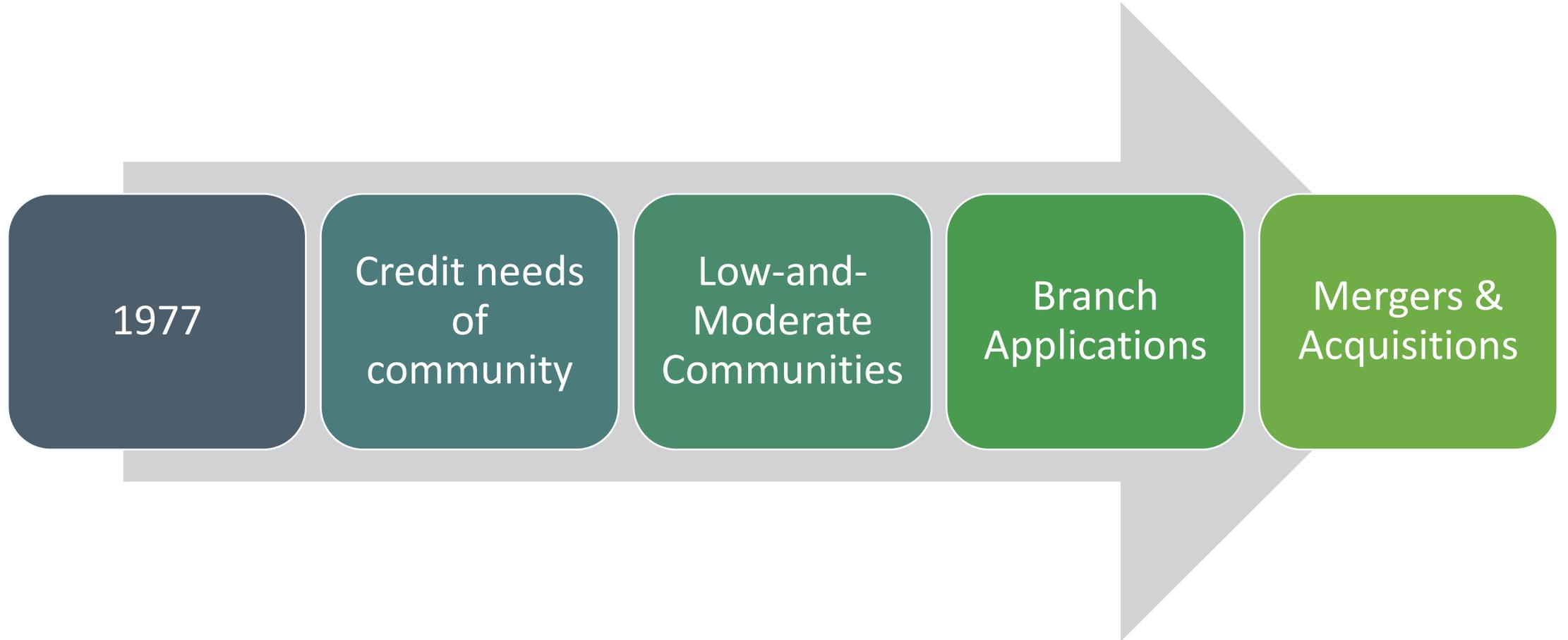
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Agenda

- Overview
- Hot Topics & Areas of Focus
 - CRA 2019 Proposed Rules
 - OCC CRA Modernization Rule Updates and Clarification
 - OCC 2020 Final Rule
 - FDIC & FRB Stance
 - Future of CRA
 - Effects of COVID-19

Overview





CRA Proposed Rules 2019

- FDIC and OCC issued December 12, 2019: Notice of Proposed Rulemaking (NPR)
 1. Clarify and expand what qualifies for CRA credit
 2. Expand where CRA activity takes place (creating additional “assessment areas” tied to where deposits originate
 3. Provide an objective method to measure CRA activity/performance through activity thresholds as % of domestic deposits
 4. Revise data collection, recordkeeping and reporting
 - Intended to increase bank activity in underserved communities where there is a significant need for credit, more responsible lending, and improvements to critical infrastructure.
 - Distressed metropolitan areas
 - Certain rural areas and tribal lands far removed from urban centers where bank branches are concentrated
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Clarify and Expand What Qualifies

- Establish clear criteria for the types of activities that qualify for CRA credit (both current and new additions)
- Require agencies to publish periodically a non-exhaustive, illustrative list of examples of qualifying services
- Establish a process for banks to seek agency confirmation that an activity is a qualifying activity
- Increase cap on size of small business loans that qualify: from \$1 million to \$2 million
- Increase cap on what qualifies as a small business: from \$1 million to \$2 million

Expanding Where CRA Activity Counts

- Preserve assessment areas surrounding banks' facilities and expand where CRA activity counts to help banks meet needs of their communities
- Required to serve the communities where they have a physical presence (except military banks)
- Would be required to serve surrounding geographies where they've originated or purchased a substantial portion of their loans
 - Facility-based assessment areas
- 50%-5% Rule

Objective Method to Measure CRA

- Include different performance standards applicable to banks of different sizes
 - Small banks (\$500 million or less total assets) continue under current small bank performance standards or can opt in to new general performance standards
- General Performance Standards would assess:
 - Distribution (i.e.- number) of qualifying retail loans to LMI individuals, small farms/businesses and LMI geographies
 - Impact of the bank's qualifying activities measured by value of bank's qualifying activities relative to its retail domestic deposits
- "Satisfactory" or "Outstanding:"
 - Must meet minimum thresholds for performance
 - Average of bank's CRA evaluation measures for evaluation period must meet associated empirical benchmark

Revise Data Collection, Reporting & Recordkeeping

- Proposal to make reporting more transparent and timely:
 - Making evaluations more objective
 - Providing clearer definitions of qualifying activities and data elements
 - Clarifying recordkeeping requirements
 - Establishing standardized reporting for banks
- Access to industry trends and individual bank progress

Final Rule: 2020 CRA Modernization

Background

- 2018 OCC issued Advanced Notice of Proposed Rulemaking (ANPR) inviting input
- 2019 OCC and FDIC issued Notice of Proposed Rulemaking (NPR)
- 2020 OCC issues Final Rule

May 20, 2020: OCC Released Final Rule

- Strengthen and Modernize Community Reinvestment Act Regulations
- Increase bank CRA-related lending, investment, and services in low- and moderate-income communities where there is significant need for credit, more responsible lending, and greater access to banking services
- Benefits communities, businesses, and banks
- Several changes in the final rule in response to stakeholder comments

Proposed Rule Vs. Final Rule

- Clarifying the importance of the quantity and quality of activities as well as their value.
- Increasing credit for mortgage origination to promote availability of affordable housing in low- and moderate-income areas.
- Clarifying credit for athletic facilities to ensure they benefit and support low- and moderate-income communities.
- Deferring establishment of thresholds for grading banks' CRA performance until the OCC assesses improved data required by the final rule.

Final Rule: 2020 CRA Modernization

Broad changes to OCC's enforcement of CRA in several areas:

- Qualifying Activities
- Assessment Area
- Performance Evaluations
- Data Collection

Small Bank Opt-In

Increased asset threshold for opting into the OCC's new framework

Banks < \$600 million in assets –

- Small bank lending test (prior to final rule) OR
- Opt-In to New rule framework

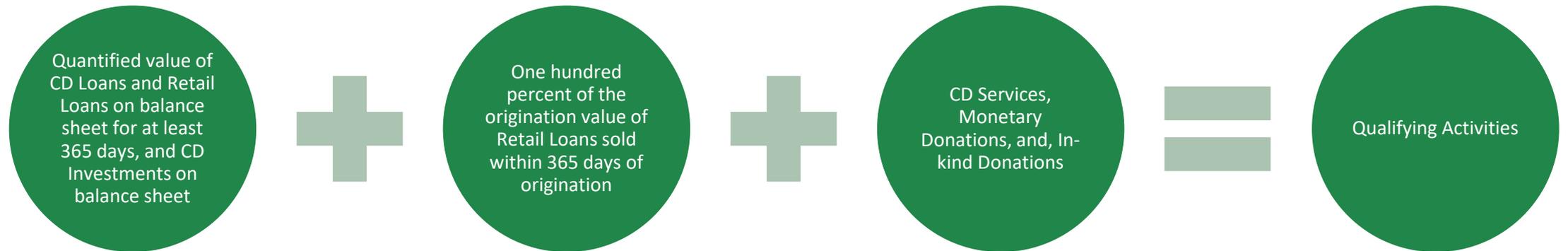
Banks \$600 million - \$2.5 billion in assets-

- Intermediate small bank framework (previous rule) OR
- Opt-In to New rule framework

Qualifying Activities

- Illustrative list maintained by the OCC
- Confirmation from OCC of qualifying activity
- Meets qualifying criteria
 - Retail Loans
 - Community Development Loans, Investments, and Services
 - Examples: affordable housing community support services, essential community facilities, support for family farms, federal/state/local government programs, etc.
- Qualifying activities quantification
 - CD Service Quantification
 - Monetary and In-Kind Donations
 - Qualifying Loans and CD Investments

Formula for Qualifying Activities



Assessment Area

- **Facilities Based Assessment Area** - Banks must delineate an assessment area in each location where the bank maintains a main office, a branch, or a non-branch deposit-taking facility that is not an ATM as well as the surrounding locations in which the bank has originated or purchased a substantial portion of its qualifying retail loans.
- **Deposit Based Assessment Area** - A bank that receives 50 percent or more of its retail domestic deposits from geographic areas outside of its facility-based assessment areas must delineate separate, non-overlapping assessment areas where it receives 5 percent or more of its retail domestic deposits. To determine whether it is required to delineate deposit-based assessment areas, all banks will be required to track and monitor the location of their retail domestic deposits.

Performance Evaluations

- Evaluation Measure
- Retail Lending Distribution Tests
 - **Geographic Distribution** – home mortgage product line, small loan to business product line, or small loan to farm product line if major retail product lines (20 or more originations per year in the assessment area)
 - **Borrower Distribution** - major retail lending product line (20 or more originations per year in the assessment area)
- Community Development Minimum

Performance Evaluations



Banking Activities During Transition Period

For bank activities conducted on or after October 1, 2020, and during the transition period

- Examinations will be conducted under applicable retail lending test criteria using the 1995 rule definitions of home mortgage loan, small business loan, small farm loan, and consumer loan in 12 CFR 25.12 and the business and farm gross annual revenue threshold of \$1 million or less in 25.22(b)(3)(ii) of the 1995 rule
- At bank's option, retail loans, may be considered as "other loan data," or "other lending-related activities," as applicable, if those loans are not otherwise considered under the applicable lending test

Data Collection, Recordkeeping, and Reporting

- Small Bank Data Collection
- General Performance Standards Data Collection
- Performance Standards Data
- Qualifying Activities and Retail Domestic Deposit Data
- Assessment Area Data
- Deposit-taking Facilities

Community Development Activities During Transition Period

For bank activities conducted on or after October 1, 2020, and during the transition period

- Examiner will consider all CD activities under the June 2020 rule
- Examiners will consider gaps during transition period

Valuing Qualifying Activities During Transition Period

For activities conducted on or after October 1, 2020

- 2020 Final Rule will apply
- Full or partial value of qualifying CD activities

For activities conducted before October 1, 2020

- 1995 rule will apply
- Provide partial credit

Activities Outside Bank Assessment Areas

On or after October 1, 2020, banks may receive consideration for qualifying activities outside of its assessment area(s) that do not directly or indirectly serve its assessment areas as follows:

- A wholesale or limited purpose bank receives consideration for qualifying activities beyond a broader statewide or regional area if the bank has adequately addressed the credit needs of its assessment area(s).
- A small or intermediate bank receives consideration for qualifying activities outside of its assessment area(s) if the bank achieves an overall satisfactory rating without consideration of those activities
- A bank operating under an approved strategic plan may receive consideration for outside qualifying activities by establishing a separate goal for those activities.

Performance Standards

- Performance standards as outlined in the 2020 Final Rule beginning on October 1, 2020
- 2020 and 1995 standards and provisions consistent (limited exceptions)
- Small, intermediate, limited purpose, and wholesale bank activities conducted during the transition period generally will be evaluated using the performance standards in the 2020 Final Rule.



Examination Procedures

The 1995 rule and guidance will apply when evaluating CRA activities that take place between Oct 1, 2020 and the effective date of new guidance or examination procedures.

Specifically:

- A small bank is subject to the 1995 rule's small bank examination procedures.
- An intermediate bank is subject is to the 1995 rule's intermediate small bank examination procedures.
- To administer a seamless transition to the 2020 Final Rule, a GPS bank is subject to the 1995 rule's large bank examination procedures.
- Wholesale and limited purpose bank type designations and examination procedures do not change.

Strategic Plan

- A bank currently operating under a strategic plan may request to amend its plan in order to create one or more additional assessment areas based on its target geographic market
- The OCC will reassess bank strategic plans that have terms which go beyond the bank's applicable compliance date.

Conclusion

Final Rule-

Effective date of the Final Rule

- October 1, 2020

Mandatory compliance date (differs from Final Rule depending on classification)

- Banks other than those classified as “small,” “intermediate,” “wholesale,” and “limited purpose banks” must comply with the notice rule by January 1, 2023.
- Wholesale and limited purposes banks must comply by January 1, 2023.
- Small and intermediate banks must comply by January 1, 2024.

Reminders-

- The OCC's final rule on CRA is currently only for OCC regulated banks.
- The Fed and FDIC will be putting out their own proposals.
- The OCC has not put out a guide for an intermediate bank at this time.

FDIC Pursues an Interagency Approach on the CRA Rules

- Consistent interagency approach to Community Reinvestment Act rules
- FDIC joined the OCC's CRA proposal in 2019
- FDIC did NOT join the agency in issuing a final rule in May 2020

September 21, 2020 FRB Issued Advance Notice of Proposed Rulemaking

- An approach to modernize regulations that implement the Community Reinvestment Act
- Invites public comment on an approach to modernize the regulations that implement the CRA
- Seeks feedback on ways to evaluate how banks meet the needs of low- and moderate-income (LMI) communities and address inequities in credit access

Looking Forward

- Proposed Rule Issued November 24, 2020
- Seeking Public Comment (Due February 2, 2021)
 - Evaluation Benchmarks
 - Retail Lending Distribution Test Thresholds
 - Community Development Minimum Under New General Performance Standards
 - Plans to Issue Information Survey

Effects of the COVID-19 Pandemic

CRA Consideration for Activities in Response to COVID-19

- **Working with Customers:** Pursuant to the Community Reinvestment Act (CRA), the agencies will favorably consider retail banking services and retail lending activities in a financial institution's assessment areas that are responsive to the needs of low- and moderate-income individuals, small businesses, and small farms affected by COVID-19 and that are consistent with safe and sound banking practices.
- **Community Development Activities:** In light of the declaration of a national emergency, this statement clarifies that financial institutions will receive CRA consideration for community development activities.

Questions?

Thank you for your participation!
We hope you found value in today's presentation.

If you have any additional questions,
contact Compliance Alliance at 888-353-3933.