KPMG

Regulatory Alert

Regulatory Insights for Financial Services

August 2026

Community Reinvestment Act: OCC, FDIC Joint Proposed Rule

KPMG Regulatory Insights

- ***Continued Priorities:*** *Proposal is consistent with and continues efforts to limit regulation to statutory mandates and tailor supervision to an institution's circumstances, including size and business strategy.*
- ***Promotion of Strategic Plans:*** *Process changes and clarifications are intended to promote utilization of the strategic plan option, especially by banks with business models that may not be well captured by standard CRA tests (e.g., de novo banks with nontraditional business models).*
- ***Raised Asset Thresholds:*** *Proposed asset thresholds would result in significant numbers of smaller, community banks (up to $10 billion) being relieved of certain data collection and reporting requirements.*
- ***Regulatory Divergence:*** *CRA regulations historically have been, and currently are, interagency rules applied by the OCC, FDIC, and FRB; it is unclear whether the proposal will move forward with just two of the three agencies participating though OCC did finalize and subsequently rescind separate rules in 2020 and 2021.*

The Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) (together, the agencies), have issued a proposal to amend their Community Reinvestment Act (CRA) rules. The proposal would retain key elements of the current CRA framework while seeking "targeted" changes, including changes to focus banks on serving the credit needs of their local communities and, in particular, ensuring that community development funding reaches the communities it is intended to benefit. The proposed areas of change include:

1. Lending
2. Community development grants
3. Regulatory burden
4. Clarity and objectivity

The agencies request comments on the proposed changes within 60 days after publication in the Federal Register.

What are community development activities?

The agencies summarize that, under the current rules, a bank's loans, investments and services that have a primary purpose of community development are considered to be "community development activities." "Community development" is defined to mean: (1) affordable housing; (2) community services targeted to low- and moderate-income (LMI) individuals; (3) economic development that finances small businesses and small farms; and (4) activities that revitalize or stabilize LMI geographies, designated disaster areas, and distressed or underserved nonmetropolitan middle-income geographies.

Note: In 2023, the OCC, FDIC and Federal Reserve Board (FRB) jointly issued final CRA rules (see KPMG Regulatory Alert here) intended to modernize the CRA framework. Those rules were subject to litigation and subsequently enjoined by a federal court before taking effect. The three agencies issued a proposed rule in 2025 to rescind the 2023 rulemaking though, as of yet, this proposal has not been finalized. The rules currently in effect are those that were in effect when the 2023 CRA rules were enjoined on March 29, 2024.

OCC, FDIC Joint Proposed Rule

The agencies state that the proposed rule would leave "much of the current framework unchanged." For example:

— Large banks would remain subject to lending, investment, and service tests covering retail lending, services, and community development (CD) activities.

— Small banks would remain subject to tailored lending tests.

— Banks could still be evaluated, as appropriate, as wholesale or limited purpose banks based on CD activities or under a strategic plan with measurable goals.

— The current assessment area framework would be "largely unchanged."

The proposed rule contains certain "substantive, technical, and process-oriented changes" that are intended to refocus the regulations in the following areas:

1. Lending

The agencies state that, in their judgment, a community's credit needs are "best and most directly met through activities that involve lending." To encourage lending, the agencies propose several targeted revisions, including to:

— Narrow the range of services considered as retail banking services by limiting them to the range and availability of an institution's "credit services" (as such, excluding deposit services) as well as to the distribution and availability of an institution's retail banking facilities.

— Clarify the concept of "responsiveness" (a consideration that would apply to the evaluation of retail and CD activities) and define the term "complexity" (a component of "responsiveness") to encourage a focus on lending. Under the proposed definition, CD investments, grants, or services that are a necessary or otherwise beneficial component of a multicomponent financing transaction involving a loan would be considered complex, as would CD lending and certain CD investments that require specialized lending expertise.

2. Community Development Grants

The agencies note their concern that grants and donations, which differ from other qualified investments involving more structured financing, may be diverted away from local communities to other activities or operating costs. Proposed changes would:

— Add a new definition for "community development grant" that would narrow the circumstances in which banks may receive CRA consideration for grants or donations to those grants or donations that:

- Will be directly used by the recipient for a program, project, or initiative with a primary purpose of community development.
- Are in the bank's assessment area.
- For large banks, are provided to a recipient whose indirect costs for administering a grant or donation do not exceed 15 percent.

— Require more transparency regarding bank CD activities.

3. Regulatory Burden

The proposal includes three categories of changes to the current rules that are intended to reduce regulatory burden, particularly for community banks.

— **Asset size thresholds:** The agencies propose defining three asset size thresholds:

- **Small bank**: A bank with less than $1 billion in total assets (the current asset threshold is less than $412 million) as of December 31 for <u>either</u> of the prior two calendar years.
- **Intermediate bank:** A bank with at least $1 billion in assets up to and including $10 billion as of December 31 for <u>either</u> of the prior two calendar years (the intermediate bank category would replace the current "intermediate small bank" category, which currently has a threshold range between $412 million and $1.649 billion.)
- **Large bank:** A bank with more than $10 billion in assets as of December 31 in <u>both</u> of the prior two calendar years.

With regard to the proposed asset thresholds, the agencies are seeking comment on whether to:

- Align the small bank asset threshold with the Small Business Administration threshold of $850 million.
- Raise the intermediate bank asset threshold to $3.252 billion.
- Raise the intermediate bank asset threshold to $30 billion to be consistent with the agencies' asset threshold for community banks, and if so, whether to raise the small bank asset threshold to $10 billion.
- Periodically evaluate the asset size thresholds to determine if changes beyond annual inflation adjustments are needed, as well as the appropriate frequency of such a review (e.g., every 3 years; every 5 years.)

As proposed, banks with $10 billion or less in assets would be subject to fewer data collection, maintenance, and reporting requirements.

— **Retail lending product lines:** The agencies propose that under both the large bank lending test and the small and intermediate bank lending test, they would consider only a bank's major product line(s) when assessing retail lending (i.e., consumer, home mortgage, small business, and small farm loans). Two alternatives are being considered:
  - **Option 1:** An agency would evaluate two of the four product lines by selecting the two largest product lines based on a bank's total retail lending activity, determined at the bank level and based on both loan count and dollar volume during the evaluation period (i.e., major product lines), provided the bank makes loans in at least two of the product lines, otherwise the agency would evaluate the bank in only one product line.
  - **Option 2:** An agency would select major product lines in each assessment area through consideration of a bank's overall lending volume and business strategy; a bank's capacity to lend in that assessment area; and the extent to which lending in the product line meaningfully contributes to the bank's record of meeting the credit needs of that assessment area. A bank may have more or less than two major product lines under this option.

  Under either proposed approach, the agencies would consider consumer lending to be a major product line only if consumer lending constitutes a majority (i.e., more than 50 percent) of the bank's retail lending by both dollar amount and loan count, or at the bank's option.

— **Public file and public notice requirements:** To account for technology advances, the proposal would make several revisions to the public file and public notice requirements, including by:
  - Eliminating the need for a bank to provide a paper copy of the information included in its public file.
  - Permitting a bank to make the information in its public file available on its public website.
  - Allowing a bank to satisfy its public notice requirement by identifying the website on which the bank posts information about its CRA performance.

4. Clarity and Objectivity

The proposal would implement several changes to the current rule that are intended to "increase the clarity, transparency, and objectivity associated with evaluating a bank's CRA performance," including changes related to:

— CD activities, such as:
  - Revising the current principles-based definition of community development by clarifying when loans, investments, grants, and services qualify as CD activities.
  - Codifying a process under which a bank could seek agency confirmation that a CD activity would receive CRA consideration.
  - Clarifying when an agency would provide CRA consideration for a CD activity that benefits an area other than a bank's assessment area(s).
  - Clarifying the information a bank must collect from the recipients of CD grants to ensure that the bank receives consideration.

— The strategic plan option in order to make it a "more viable and less burdensome option" by:
  - Clarifying how to submit, amend, and implement a strategic plan.
  - Providing additional information regarding a plan's contents, particularly the measurable goals.

  The agencies observe that strategic plans are "underutilized" and, based on industry feedback, believe this to be attributable to complexity in the current rules. They specifically request comment on whether they should consider developing and applying a process similar to the OCC's proposed guidance governing a simplified strategic plan process for community banks, which would provide elective goals and other guidance for developing a strategic plan for all banks (see KPMG Regulatory Alert here.)

For more information, please contact Mike Lamberth or Todd Semanco.

Contact

Laura Byerly
Managing Director
Regulatory Insights
lbyerly@kpmg.com

Brian Hart
Principal
Risk, Regulatory and Compliance
bhart@kpmg.com