



The Daily Dish

If It Is Broke, Why Fix It? The Community Reinvestment Act

THOMAS KINGSLEY | JULY 26, 2021

In 1977 Congress passed the Community Reinvestment Act (CRA) to require deposit-taking banks to provide loans or general banking services to individuals living in low-income communities, to combat a practice known as “redlining.” Between the CRA and redlining, sadly it is redlining that enjoys [the higher profile today](#); having undergone zero meaningful revision since 1977, the CRA is woefully *déclassé*. Forget internet banking; the CRA was drafted by a Congress that preceded [interstate](#) banking. The result for the banks it applies to is an extraordinarily burdensome compliance regime that fails to even reflect the basic realities of how banks do business today.

To make matters worse, the CRA is administered jointly by the Federal Reserve (Fed), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC), following the logic that the most effective initiatives are run by inter-agency committee. An excess of bureaucracy is readily apparent from the tortured timeline of reform efforts. Breaking the DC tradition (if not rule) that all supervisory parties be involved in reform efforts, the OCC went ahead with a [CRA reform proposal](#) in late 2019, joined only reluctantly by the FDIC. The Fed turned its nose up at the whole affair and even the FDIC eventually withdrew from the rule before the OCC finalized it in May 2020, noting that it could “not commit to the FDIC’s timeline” (whatever *that* meant). In October 2020, the Fed released its own, separate, [CRA reform proposal](#), further muddying the waters.

But a new administration demands new initiatives, and in May this year the OCC, under an *acting* [Comptroller of the Currency](#), announced that it would be “[reconsidering](#)” the final, implemented, CRA rule. This development is an enormous shame, for even though the OCC’s final rule had its detractors, the rule represented a welcome step in the right direction by updating the CRA assessment process, excluding smaller banks from the paperwork entirely, and most important finally recognizing that an ever vanishingly smaller proportion of banking is performed in brick-and-mortar stores.

All is not lost, however, because to this one-step-forward, two-steps-backward approach came the news on [Tuesday of last week](#) that the three federal supervisory agencies would once again be joining hands to consider reform in harmony. This announcement takes us back to...exactly where we started—only several years, thousands of federal hours, and millions of dollars in costs for banks having to re-tool their compliance departments to meet the OCC rules later.

At least there *is* agreement that the CRA is fundamentally broken and must be fixed, if not yet agreement as to how. That is why it is so particularly baffling that state legislators in Illinois, Massachusetts, and New York are [considering the application of CRA-like regimes to non-depository financial services companies](#), most obviously independent mortgage banks. The expansion of a broken system, on a piecemeal state-by-state basis, to firms the CRA was never designed to cover, while in the background the responsible federal agencies have no idea how to proceed, seems like a recipe for catastrophe.