The Daily Dish

Updating the Community Reinvestment Act

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Eakinomics: Updating the Community Reinvestment Act

The Community Reinvestment Act (CRA) requires all banks insured by the Federal Deposit Insurance Corporation (FDIC) to be assessed to determine whether they offer credit in all communities in which they are chartered to do business. It was passed in 1977 to curtail the discriminatory practice of "redlining" – withholding loans or general banking services to individuals from low-income areas. In the words of Federal Reserve (Fed) Board Governor Lael Brainard, "The CRA plays a vital role in bringing banks together with community members, small businesses, local officials, and community groups to make investments in their community's future."

The CRA is jointly overseen by the Office for the Comptroller of the Currency (OCC), the FDIC, and the Fed. In August 2018, the OCC issued a notice of proposed rulemaking to modernize the CRA. A modernization is uncontroversial; the act of one agency moving forward without the others raised a few eyebrows.

A year later, the FDIC has joined the OCC and (on December 12) released a joint proposal to modernize the CRA. As detailed by AAF's Thomas Wade, it concludes that "the current CRA framework has not kept pace with changes in banking or technology and that the CRA regulations and guidance have become cumbersome, outdated, and complex." The proposal contains three main elements: (a) small bank exemptions, (b) a new approach to defining assessment areas, and (c) heightened transparency in the bank-assessment process. Small-bank exemptions are consistent with the move toward keeping them free of the most burdensome aspects of bank regulation, and a new compliance approach reflect the fact that CRA compliance is really, really a pain in the local assessment area.

But the really interesting piece is the recognition that in a world of online banking and growing fintech services, it might be difficult to identify the (local assessment) "area" that a bank serves. As Wade summarized it: "If a bank receives more than 50 percent of its deposits from areas not directly linked to the bank's physical locations, as determined by zip code, the bank must then investigate to see whether any of those locations have a concentration of more than 5 percent of the bank's deposits. If so, that area becomes a new CRA assessment area, requiring the bank to become CRA compliant."

Forget whether this is the right solution to the issue; it's where the regulatory drama begins. Recall that only two (OCC and FDIC) of the three regulators took part in the proposal. Yesterday, Fed Governor Brainard delivered a speech entitled "*Strengthening the Community Reinvestment Act by Staying True to Its Core Purpose*" that presumably laid out the Fed's position (and took a thinly veiled shot at the other agencies).

The Brainard speech was a detail-laden exposition of a new approach to compliance that also is responsive to bank size. But in sharp contrast, it was silent on the increasing difficulty in identifying "where" a bank is operating. As she concludes, she notes: "We were hopeful our proposed approach could be incorporated into the proposed rulemaking that was released last month in order to seek public comment on a range of options. Based on the best available data, we concluded that CRA metrics tailored to local conditions and the different sizes and business models of banks would best serve the credit needs of the communities that are at the heart of the statute."

Obviously, their proposed approach was not adopted by the other agencies. Despite this, she argues that "We continue to believe that a strong common set of interagency standards is the best outcome. By sharing our work publicly, we hope to solicit public input on a broader set of options for reform and find a way toward interagency agreement on the best approach."

In short, CRA reform is on the horizon, but there is far from a consensus on what it should look like, and it may take some time to get all three agencies on the same page.