THE NATIONAL LAW REVIEW

Federal Reserve Issues Report on CRA Roundtables

Monday, June 17, 2019

Article By Ballard Spahr LLP
John L. Culhane, Jr.
Consumer Finance Monitor

Financial Institutions & Banking
All Federal

The Federal Reserve Board has issued a report, "Perspectives from Main Street: Stakeholder Feedback on Modernizing the Community Reinvestment Act," that summarizes the feedback it received during a series of roundtable discussions on the current state of, and potential revisions to, the Community Reinvestment Act (CRA).

Last August, the OCC issued an advance notice of proposed rulemaking (ANPR) in which it invited public comment in an effort "to solicit ideas for building a new framework to transform or on ways to transform or modernize the regulations that implement the [CRA].'" The ANPR followed the Treasury Department's issuance of a memorandum in April 2018 that made recommendations for modernizing the CRA to reflect the significant organizational and technological change experienced by the U.S. banking industry since the CRA's enactment.

The Fed, together with the OCC and FDIC, are the primary CRA regulators, and each agency has adopted regulations to implement the CRA. In April 2019, *American Banker* reported that, according to comments made by officials from the three agencies, the agencies were ready to begin working on an interagency proposal to reform their CRA regulations and hoped to have a proposal ready by early 2020.

The Fed's report indicates that, as one channel for obtaining "nuanced perspectives," its staff read the nearly 1,500 comments that were submitted in response to the OCC's ANPR. As a second channel, the Fed hosted 29 roundtables around the country that were attended by over 400 bankers and community group members.

Participant feedback received at the roundtables included the following:

- Assessment areas. Many participants believed that assessment areas should be expanded and based on a combination of a bank's lending activities, deposits, and/or market share, defined by both the bank's physical and online presences. Bankers and community group members both made the point that assessment area designations should reflect where there are community needs, with several participants suggesting that a bank should have flexibility to go beyond its defined assessment area to receive credit for activities in areas that are not currently being served and where the greatest needs exist. Several participants recommended the creation of "CRA zones" in which any qualified activity by a bank would entitle the bank to CRA credit.

- Evaluating performance. While raising significant concerns about the use of a single metric approach, many participants were open to more quantitative assessments of CRA performance and supported the use of more data in evaluations. Some participants suggested that metrics should be based on a bank's financial capacity, using factors such as tier 1 capital, deposits, or income, while others suggested that metrics could be based on the number of bank employees or the share of the bank's overall CRA activities in a community. A common theme, particularly among community group members, was that bank performance should be based on more than the number and dollar amount of CRA activities and should also consider the impact of a bank's activities. It was suggested that regulators develop a standard set of data-driven factors to outline community conditions and needs, which could help all stakeholders consistently assess a bank's performance and, specifically, a bank's responsiveness to identified needs.

- Defining community development activities. Bankers and community group members stressed the need for a clearer definition of what qualifies as an eligible community development activity and urged an expansion of the products and services eligible for CRA credit. Some participants recommended that the CRA should better encourage banks to offer financial products and services aimed at helping customers improve their financial health by including educational assistance loans, payday loan alternatives, automobile loans, and individual development loans. Community group members suggested that regulators should evaluate whether banks are providing affordable checking and savings accounts for low and moderate income consumers and not just access to credit and should penalize banks for offering products with high fees or other potentially harmful features. Many bankers indicated that community development credit should be given for financing vital community services such as health clinics and police vehicles even if the activity does not meet the explicit purpose test or is not in a distressed or underserved non-metropolitan middle-income geography.