

[Banking and Finance Law Daily Wrap Up, TOP STORY—Under new acting comptroller, OCC suspends most of unilateral CRA rule, \(May 19, 2021\)](#)

Banking and Finance Law Daily Wrap Up

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By Jacob Bielanski

The Senate Banking Committee Chair accused the previous administration's comptroller of having "jammed" the rule through without the support of fellow financial regulators.

The Office of the Comptroller of the Currency (OCC) formally [announced](#) the suspension of most of a final rule promulgated last June to modernize the Community Reinvestment Act (CRA), pending "reconsideration." "The OCC's actions will provide for an orderly reconsideration of the June 2020 rule and provide banks with more flexibility to deploy resources in response to the COVID-19 pandemic," the OCC wrote in a bulletin posted on May 18. "These actions also provide the OCC with the opportunity to consider additional stakeholder input, to evaluate issues and questions that have been raised, to reassess the necessary data, and to take additional regulatory action, as appropriate."

Certain aspects of the June 2020 final rule will still be implemented, including deployment of a system for banks to request confirmation of an activity's CRA applicability; scheduled training webinars for bankers and examiners; and new guidance on bank type determinations, "distressed" or "underserved" definitions, and the median hourly compensation value for community development service activities. Implementation of these rule aspects had already begun as of Oct

The move by the OCC was immediately hailed in separate statements by the American Bankers Association (ABA) and the National Community Reinvestment Coalition (NCRC). NCRC CEO Jesse Van Tol [said](#) implementation of the 2020 rule would have been "disastrous" for the low- and moderate-income communities the law was intended to help. However, the NCRC was critical of the OCC decision to continue implementing certain portions of the June rule, particularly provisions that allow CRA credit for loans that only "partially" benefit LMI communities.

"For example, the OCC currently allows banks to receive CRA credit for large infrastructure projects, like major bridges, that may do little to improve community or economic development or address needs in low- and moderate-income communities," the NCRC said in a statement. The NCRC remains a co-plaintiff, along with the California Reinvestment Coalition, in a lawsuit seeking to halt the implementation of the June 2020 rule, alleging violations of the Administration Procedures Act.

Though CRA modernization has been generally supported, publication of the final rule drew widespread criticism for, among other issues, its failure to include sign-on from the Federal Reserve or Federal Deposit Insurance Corporation, two entities also involved in CRA evaluations. The rule process began in 2019 as a joint rule proposal with the FDIC, but Chairman Jelena McWilliams ultimately chose not to finalize the rule despite publicly supporting "efforts to make the CRA rules clearer, more transparent, and less subjective." After publication, the OCC defended its decision to implement the rule amidst widespread concerns by commenters by arguing that the rule took an "incremental" approach that accounted for "differences among the categories of institutions that are subject to the CRA." Then OCC Comptroller Joseph Otting resigned from his post within days of the June 2020 rule publication.

In a statement, Sen. Sherrod Brown (D-Ohio), Chair of the Senate Committee on Banking, Housing, and Urban Affairs, [welcomed](#) the decision, calling the June OCC rule "misguided" and accusing former comptroller Otting of having "jammed" the rule through, "against the advisement of civil rights leaders, community development activists, and local voices."

The latest OCC announcement comes less than two weeks after the appointment of Acting Comptroller, Michael Hsu.

Last November, the OCC had published a call for comments on a proposed approach to the CRA's general performance standards under then-acting Comptroller, Brian Brooks (see [Banking and Finance Law Daily](#), Nov. 30, 2020).

The OCC announcement suspends evaluation criteria that banks and other stakeholders would have had to comply with as soon as Jan. 1, 2023. ABA President and CEO Rob Nichols called it a "positive step," but sought to have the rule either formally withdrawn or have its compliance deadlines pushed back. "We still believe there is a compelling need to modernize CRA rules so they reflect the modern banking system and meet the needs of communities," Nichols was quoted in a [May 18 press release](#). "Today's action by the OCC can help us get there."

Companies: American Bankers Association; National Community Reinvestment Coalition

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