

Banking and Finance Law Daily Wrap Up, COMMUNITY DEVELOPMENT—5th Cir.: OCC, FDIC withdraw from banking agencies' appeal of CRA final rule injunction, (Jul. 7, 2026)

Banking and Finance Law Daily Wrap Up

By Justin Marcus Smith, J.D.

While the Fed may be close to a replacement CRA rulemaking, the OCC and FDIC said they intend to pursue a “different path” and that the CRA does not require a joint rulemaking.

On July 1, 2026, the Office of Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) [moved](#) to dismiss their participation in a joint appeal initiated with the Board of Governors of the Federal Reserve System. The joint appeal, pending before the U.S. Court of Appeals for the Fifth Circuit since 2024, challenged the district court preliminary injunction that halted enforcement of the October 2023 Community Reinvestment Act (CRA) Final Rule (2023 Final Rule). Although the OCC and FDIC have said they intend to pursue a different path, the Fed confirmed it will continue to work on a new rulemaking that proposes to rescind the 2023 Final Rule and reinstate the prior CRA regulatory framework. In a joint [status report](#) filed with the court, the Fed stated it has received roughly 50 unique comment letters in connection with the replacement rulemaking and may be close to completion of that new rulemaking process. The OCC and FDIC noted the CRA does not require joint issuance of implementing regulations (*Texas Bankers Assoc. v. Bd. of Governors of the Fed. Rsrv. Sys.*, No. 24-10367 (5th Cir. Jul 1, 2026)).

In October 2023, the Fed, the OCC, and FDIC (collectively, the Agencies) issued a final rule to strengthen and modernize regulations implementing the CRA. The American Bankers Association, U.S. Chamber of Commerce, Independent Community Bankers of America, and four Texas-based associations (collectively, the banking associations) jointly sued the Agencies, seeking Administrative Procedure Act (APA) review of the CRA final rule (see *Banking and Finance Law Daily*, Feb. 6, 2024).

In April 2024, a federal district court for the Northern District of Texas preliminarily enjoined the Agencies from enforcing the 2023 final rule (see *Banking and Finance Law Daily*, Apr. 1, 2024). The court determined the plaintiffs had associational standing and easily showed substantial likelihood of success on the merits with substantial threat of irreparable injury.

The Agencies appealed the preliminary injunction to the U.S. Court of Appeals for the Fifth Circuit. They argued the district court erred in finding that the plaintiffs had carried their burden on the likelihood of success factor. The Agencies urged that they did not exceed their statutory authority in issuing regulations that evaluate retail lending in a bank's “entire community.”

On July 18, 2025, the Agencies issued a joint notice of proposed rulemaking (NPR) that proposed to rescind the 2023 final rule and reinstate the prior CRA framework (see *Banking and Finance Law Daily*, July 16, 2025).

A July 1, 2026, status report filed with the Fifth Circuit stated the Fed is “close to completion of the rulemaking process.” It also noted that the litigation will be moot if the 2023 final rule is ultimately rescinded and replaced as a result. The Fed proposed to file an appropriate motion within 15 days of any final rule being issued, or a status report by Aug. 14, 2026, whichever is earlier.

The OCC and FDIC filed a discrete motion to voluntarily dismiss the pending appeal as it pertains to those two

agencies. The OCC and FDIC said they “no longer wish to pursue” the appeal. The Fed did not join in the motion, and the OCC and FDIC said the Fed and the banking associations did not take a position on the OCC and FDIC request to voluntarily withdraw.

Attorneys: Matthew Brian Nicholson (Williams & Connolly, L.L.P.) for Texas Bankers Association. Joshua Paul Chadwick Board of Governors (Board of Governors of the Federal Reserve System) for Board of Governors of the Federal Reserve System.

Companies: Texas Bankers Association; American Bankers Association; Chamber of Commerce for the United States of America; Longview Chamber of Commerce and Amarillo Chamber of Commerce

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