



Federal Financial Analytics, Inc.

CRITICAL CRA CONSIDERATIONS

The Fed's initial CRA rewrite redefines banking-industry CRA requirements ahead of likely inter-agency consensus next year regardless of who wins the White House. However, who wins the White House will redefine who comes under the Community Reinvestment Act and thus which financial institutions take on new obligations to serve low-and-moderate income and minority communities.

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FedFin's recent in-depth analyses of the [OCC's final and very controversial CRA standards](#) and the [Fed's sweeping advance notice of proposed rulemaking](#) highlight the ways in which fast-changing obligations for community reinvestment may redefine the strategic context of U.S. consumer banking. We expect the banking agencies to craft a consensus CRA standard towards the end of 2021 regardless of who wins the White House, but who wins the White House and controls the Senate will determine the extent to which banking agencies go farther and even whether the Community Reinvestment Act stands as is in the statute books. We'll be watching:

- Will the banking rules get tougher? One option is to expand the reach of the CRA rules not just to banks, but also to those who partner with banks in ways Democrats call "rent-a-bank" arrangements. The agencies' authority to do so under current law is uncertain, but pressed to get tougher, they could give it a go.
- Will CRA judgments ahead of bank expansions become more stringent? CRA's biggest teeth are in the power the law gives communities to protest bank expansions and M&A. Many community groups have long believed that CRA reviews are ritualistic – the bank makes some promises, community groups demand and often get more, and transactions advance unless the bank has a "needs to improve" rating. The Fed's proposal makes getting an outstanding rating a greater challenge, reducing the number of transactions that now sail through CRA review after just a few bumps. The agencies are likely also to come under still greater pressure not just to sanction illegal discrimination, but to include in a criterion of CRA ratings a positive outreach program to minorities that is validated by quantitative denial disparity rates or other criteria.
- Who comes under CRA? The Trump Administration may not be known as a strong advocate of community-level financing, but its Treasury Department [recommended in 2018](#) that the law be changed to bring nonbank mortgage lenders under its requirements. Sen. Warren (D-MA) also called for this, but initially went farther and argued that insurance companies and credit unions should be brought under CRA. She dropped the credit-union idea after heavy lobbying, but it could come back up along with demands not just to include insurers, but also to require a raft of other nonbank consumer-finance firms submit to CRA scrutiny by the Fed or a newly-reconstituted CFPB.

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