

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

DATE: July 7, 2025

TO: Board of Governors

FROM: Staff¹

SUBJECT: Notice of Proposed Rulemaking – Community Reinvestment Act (Regulation BB)

ACTION REQUESTED: Approval to publish in the *Federal Register* the attached draft notice of proposed rulemaking (NPR), which would amend the Board's regulation (Regulation BB)² implementing the Community Reinvestment Act (CRA).³ The draft NPR would seek comment on rescinding the Board's October 2023 CRA final rule (2023 CRA Final Rule or final rule)⁴ and replacing it with the CRA framework that existed prior to the final rule (the 1995 CRA regulations), with certain conforming amendments.⁵ As explained below, banks currently operate under the framework of the 1995 CRA regulations. The proposed rule would be published jointly with the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC), with comments due by 30 days after publication of the NPR in the *Federal Register*. Staff also request authority to make technical, non-substantive changes to the attached draft NPR prior to publication in the *Federal Register*.

¹ Mr. Belsky, Mr. Olson, Mr. Firschein, Mr. George, Mr. Patel, Ms. Neill, and Ms. DiGiovanni (Division of Consumer and Community Affairs); Mr. Van Der Weide, Ms. Sahni, Mr. Winerman, and Mr. Gaffney (Legal Division).

² 12 CFR part 228.

³ 12 USC 2901 *et seq.*

⁴ 89 Fed. Reg. 6574 (Feb. 1, 2024).

⁵ Specifically, the draft NPR would amend the definition of “small bank” to reflect the 2025 inflation adjustments to the “small” and “intermediate small” bank thresholds. See 89 Fed. Reg. 106480 (Dec. 30, 2024).

DISCUSSION:

Staff believe that rescinding the 2023 CRA Final Rule and recodifying the 1995 CRA regulations would best achieve the agencies' CRA objectives at this time. Specifically, the proposal would support two major objectives: (1) restoring certainty in the CRA regulatory framework for stakeholders; and (2) limiting regulatory burden on banks. Further, the proposal would reflect a continued focus on the CRA's purpose—encouraging banks to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of those banks.

I. 2023 CRA Final Rule and Subsequent Litigation

2023 CRA Final Rule

The agencies issued the 2023 CRA Final Rule to modernize their CRA regulations to account for changes in the banking industry, including internet and mobile banking, and to provide greater clarity and consistency in the application of CRA regulations, among other reasons. As discussed in greater detail in the draft NPR, the final rule, if fully implemented, would have raised the asset-size thresholds for small, intermediate, and large banks, to which categories CRA examinations are tailored, and revised the performance tests and other aspects of the 1995 CRA regulations.

As adopted, the 2023 CRA Final Rule would have become effective on April 1, 2024; however, most substantive provisions of the rule would not have become applicable until January 1, 2026, or January 1, 2027.⁶ During this transition period, the 2023 CRA Final Rule specified that the 1995 CRA regulations would remain applicable.

⁶ On March 21, 2024, the agencies issued a supplemental rule to the 2023 CRA Final Rule. The supplemental rule extended the applicability dates of the facility-based assessment area and public file provisions of the 2023 CRA Final Rule from April 1, 2024, to January 1, 2026. *See* 89 Fed. Reg. 22060 (Mar. 29, 2024).

Litigation

On February 5, 2024, several plaintiffs jointly filed suit against the agencies in the U.S. District Court for the Northern District of Texas challenging aspects of the 2023 CRA Final Rule. The plaintiffs subsequently requested a preliminary injunction on February 9, 2024. On March 29, 2024, the district court granted plaintiffs' request and enjoined the agencies from enforcing the 2023 CRA Final Rule against the plaintiffs, pending resolution of the litigation. The district court's order also extended the 2023 CRA Final Rule's effective date of April 1, 2024, along with all other implementation dates, day for day for each day the injunction remains in place.

On April 18, 2024, the agencies appealed the district court's preliminary injunction to the U.S. Court of Appeals for the Fifth Circuit. However, on March 28, 2025, during the pendency of the appeal, the agencies filed an unopposed motion to stay the appeal pending completion of a new rulemaking that would propose rescinding the enjoined 2023 CRA Final Rule and reinstating the CRA framework that existed prior to the 2023 CRA Final Rule. The agencies publicly announced this intention the same day.⁷ On April 1, 2025, the Fifth Circuit granted the agencies' motion.

II. Proposed Rescission of the 2023 CRA Final Rule

Restoring certainty. The draft NPR states that the agencies' reconsideration of the 2023 CRA Final Rule is precipitated primarily by the uncertainty created by the pending litigation. Since the issuance of the preliminary injunction enjoining the 2023 CRA Final Rule, staff's observations are that not all stakeholders understand whether they should prepare to comply with

⁷ See "Agencies Announce Intent to Rescind 2023 Community Reinvestment Act Final Rule" (Mar. 28, 2025), <https://www.federalreserve.gov/news-events/pressreleases/bcreg20250328a.htm>.

the 2023 CRA Final Rule or even which regulatory framework is currently applicable. Staff also understand that, despite the fact that the 2023 CRA Final Rule is currently enjoined and might not go into effect, banks might be devoting resources toward preparing for the final rule that could otherwise be allocated toward helping to meet the credit needs of banks' communities. Returning to the 1995 CRA regulations at this time, in staff's view, would confirm for banks that they do not need to allocate resources toward preparing for the 2023 CRA Final Rule. Thus, this approach could better facilitate the purpose of the CRA—encouraging banks to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of those banks.

Limiting burden on banks. Under the 2023 CRA Final Rule, a subset of banks would have additional regulatory requirements relative to the 1995 CRA regulations. Furthermore, all banks would have incurred near-term costs associated with reviewing the 2023 CRA Final Rule to ensure that their policies, procedures, and data collection, maintenance, and reporting processes would be compliant. In contrast, because banks are currently subject to and examined under the 1995 CRA regulations, staff expect that any new regulatory burden associated with recodifying those regulations would be *de minimis*.

Alternatives considered. Staff considered several potential alternatives to rescinding the 2023 CRA Final Rule and returning to the 1995 CRA regulations, but believe that these alternatives do not best meet the objectives of restoring certainty and limiting burden at this time. Alternatives considered and discussed in greater detail in the draft NPR include: (1) maintaining the 2023 CRA Final Rule; (2) proposing to replace the 2023 CRA Final Rule with a new CRA framework that is materially different from the framework contained in the 2023 CRA Final Rule; and (3) proposing targeted amendments to the 2023 CRA Final Rule.

Transition considerations. The agencies currently evaluate bank CRA performance under the 1995 CRA regulations because the 2023 CRA Final Rule never took effect. Therefore, staff believe that transition considerations associated with implementing the proposal would be *de minimis*.

Public comment requested. The draft NPR would request public comment on all aspects of the proposal, including any potential economic effects and regulatory burden.

RECOMMENDATION:

Based on the foregoing, staff recommend that the Board approve the attached draft NPR for publication in the *Federal Register* with comments due within 30 days after publication of the NPR in the *Federal Register*. Staff also recommend that the Board delegate to staff authority to make technical, non-substantive changes to the attached materials to prepare them for publication in the *Federal Register*.

Attachment