

Summary of Key Comments and Resolutions

The following table details changes the Office of the Comptroller of the Currency made to its final rule strengthening the Community Reinvestment Act to address most criticism made by community groups and other stakeholders.

Source	Issues	Resolution
Community Group/ Bankers	The proposal eliminates credit for mortgages in LMI tracts . The agencies must consider mortgages in LMI census tracts. (NCRC at 29)(MBA at 6)	The final rule reinstates the geographic distribution test for <i>number of</i> mortgages in LMI tracts. The final rule gives credit for <i>dollar value</i> of only LMI mortgages under the CRA evaluation measure.
Community Group/ Bankers	The proposal undervalues originations for loans that are sold and disfavors the originate-to-sell business model. The agencies should provide full credit to originated loans that are sold. (NCRC at 39-40)	The final rule gives 100 percent of the origination value for mortgage loans in the year in which the loan was originated.
Community Group/ Bankers	Providing presumptive bank-level ratings of Satisfactory or Outstanding if a bank has received Satisfactory or Outstanding ratings in a significant portion of its AAs , which the proposal describes as more than 50 percent [sic], is contrary to the statutory purpose and requirement. An 80 percent requirement would be better, but the agencies should establish no threshold because banks must be accountable for performance in all of their AAs. (NCRC at 68, 80).	Under final rule, to achieve satisfactory or outstanding presumptive rating, generally a bank would need to achieve the respective ratings in 80 percent of its AAs and cover 80 percent of deposits. To tailor the application for institutions with a small number of AAs (e.g., 5 or less), the rule focuses more on the percentage of total deposits and less on the number of assessment areas that need to achieve a rating. These banks can pass if they achieve 80 percent deposits and at least 50 percent of AAs.
Community Group	The proposal should eliminate or limit the inclusion of middle-income housing in high-cost areas as affordable housing. (NCRC at 77)	We eliminated the inclusion of middle-income housing as suggested to give exclusive focus on LMI lending.
Community Group	The current small loan to a business cap of \$1 million could be updated to \$1.6 million to account for inflation according to GAO. Increases beyond that are not supported by data because neither the overall average nor the average for the highest quartile of loans to businesses with revenues over \$1 million approached the \$1 million loan limit (NCRC at 34).	We adopted the NCRC suggestion in the final rule instead of increasing the threshold to \$2 million as proposed.

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<p>Community Group/ Bankers</p>	<p>NCRC states that retail deposits should not exclude municipal deposits from retail domestic deposits because they are a form of community wealth (derived from taxes and fees on residents) and reflect the resources of actual and potential bank customers. (NCRC at 65)</p>	<p>The final rule defines retail domestic deposits to include municipal deposit.</p>
<p>Community Group</p>	<p>Consideration of consumer lending must be implemented carefully to avoid abusive practices, and any changes must preserve banks' track record of providing loans that are safer, sounder, and less abusive. (NCRC at 37-38)</p>	<p>The final rule removes credit cards from consumer lending considered under CRA, treats all retail products the same for purposes of the 15 percent major products tests (does not aggregate consumer lending into one), and of all products that are above 15 percent, the rule only requires the evaluation of the top two. We will allow banks the option to have other lines (beyond the two required lines) above 15 percent be evaluated as well.</p>
<p>Community Group/ Bankers</p>	<p>CD services cannot be quantified in the manner suggested by the agencies. The value of an hour of financial counseling to an LMI person is greater than an hour of general volunteer work. (NCRC at 41) The CRA evaluation measure would reduce consideration of branches. The proposal would remove the service test, which accounts for 25 percent of a bank's rating. (NCRC at 8, 66, 79)</p>	<p>The final rule adopts a two-part approach to consider CD services quantitatively and qualitatively.</p> <p>The preamble states that services will be accounted qualitatively as part of the performance context evaluation. The agency also will develop a guidance for examiners to guide their qualitative judgment as part of performance context considering retail services such as deposit accounts, free checking, retail lending activities, alternative delivery methods etc.</p> <p>In response to concerns that the proposal would not have appropriately valued CD services, the final rule also provides a multiplier for those activities.</p>
<p>Community Groups/ Bankers</p>	<p>Commenters described the rationale for the proposed CRA evaluation measure benchmarks, CD minimum, and retail lending distribution tests thresholds as unclear and inadequate. Commenters expressed differing views on whether these benchmarks, minimums and thresholds would be difficult or easy to satisfy or whether they should be increased or decreased. They argued that the agencies did not sufficiently describe the data, rationale, or methodology for the establishment of these thresholds, making it difficult to assess and comment on them.</p>	<p>While the proposed thresholds for each of the three components of the objective evaluation framework were reasonable, the agency believes it would be appropriate to gather more information and further calibrate the benchmarks, thresholds, and minimums. The OCC will issue another Notice of Proposed Rulemaking shortly that will request information from industry and explain the process the agency will engage in to calibrate more precisely the precise requirements for each of the three components of the objective evaluation framework. After receipt and consideration of comments to another Notice of Proposed Rulemaking, additional data collection, and analysis, the OCC will set specific benchmarks, thresholds, and minimums. The OCC still expects to periodically review and adjust these benchmarks.</p>

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<p>Community Group/ Bankers</p>	<p>Commenters suggested that the proposal's deposit-based assessment areas would exacerbate credit deserts. Commenters also stated that the deposit-based assessment area concept would focus CRA activities in population centers that are typically already well-served by banks, thereby reinforcing—not reducing—the CRA hot spot problem. Some of these commenters voiced concerns that deposit-based assessment areas (and therefore CRA hotspots) would be created in affluent areas instead of in LMI communities, rural areas, Indian country, and other underserved areas because of the concentration of deposits.</p>	<p>The proposal would have mitigated artificial hot spots and direct CRA activity to areas from which banks receive deposits in three ways:</p> <ol style="list-style-type: none"> 1. Giving banks CRA credit for activities conducted in underserved and distressed areas, disaster areas, and Indian country anywhere in the country. 2. Deposit-based assessment areas would have been a mechanism of ensuring banks are serving the communities in which they and their customers are located and not a device to limit where banks would have been able to receive CRA credit. 3. Because a bank's CRA evaluation measure in any assessment area would have been a portion of its retail domestic deposits a bank received from that area, artificial CRA hot spots would have been reduced. <p>The final rule allows a bank to delineate its deposit-based assessment areas at any geographical area up to the state level to encourage banks to engage in qualifying activities in CRA deserts in response to comments received on the issue, the final rule adopts a definition of CRA desert and provides multipliers for qualifying activities in these areas.</p>
<p>Community Group</p>	<p>Not all sports stadiums match the goals of the CRA. Stadiums often lead to displacement, have little economic benefit, and would divert large amounts of bank funding. The dollar value of a single stadium financing could exceed other CD activities. It is unclear why the proposal eliminates credit for mortgages in LMI tracts but provides credit for stadiums in those tracts. (NCRC at 7, 25-26, 77). Do not provide credit for athletic stadiums. (NCRC at 25, 77).</p>	<p>The rule removes the stadium example from the qualifying activities list and explains in the preamble that athletic facility projects can receive credit through various criteria and have long been permitted based on their individual facts. The preamble states that the agency will continue to allow credit for stadiums consistent with historic practice and will consider credit as part of evaluation of whether the activity (coupled with other things) create jobs, supports growth or stabilization, etc.</p>
<p>Community Group</p>	<p>The 20-loans per 3-5 year evaluation period (4 to 7 loans per year depending on the length of the evaluation period) threshold for the retail lending distribution tests is too low to determine how well a bank is serving its assessment area. (Urban Institute at 10, 12, 16)</p>	<p>The final rule assesses a bank's performance under the retail lending distribution test for major retail lending product lines with 20 or more originations per year in an assessment area during the evaluation period (60-100 loans per evaluation period).</p>

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<p>Bankers</p>	<p>Wholesale, special purpose, and limited purpose banks have been appropriately granted distinct CRA treatment in the past 25 years because their business models can differ markedly from banks with a retail focus. Accordingly, it is inappropriate to apply the general performance standards to these banks. (ABA et al. at 30; CBA at 27)</p>	<p>The final rule preserves the current treatment of wholesale, limited purpose, and special purpose banks.</p>
<p>Community Group/ Bankers</p>	<p>The \$500 million small bank threshold would provide an insufficient accommodation for community banks because of the enormous regulatory burden. (ABA et al. at 28; TBA at 2; CaBA at 3; ICBA at 4-5).</p>	<p>Final rule addresses the idea of a more incremental approach (from NCRC) raises the exemption for small banks to \$2.5 billion. Under the final rule, there are three categories of banks: a small bank (\$0 to \$600 million in assets as defined by the SBA) may opt in to the new evaluation framework or be examined using the current framework and only require data and record keeping for AA purposes; an intermediate bank (between \$600 million and \$2.5 billion in assets, using the method suggested by ABA and ICBA) may opt in or be examined using the current framework, including existing CD lending evaluation, and only require data and record keeping for AA purposes; and large banks (above \$2.5 billion in assets) required to meet the new general performance standards. Large banks conduct the majority of CRA activities and hold the majority of deposits.</p>