



441 G St. N.W.  
Washington, DC 20548

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February 16, 2024

The Honorable Sherrod Brown  
Chairman  
The Honorable Tim Scott  
Ranking Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Patrick McHenry  
Chairman  
The Honorable Maxine Waters  
Ranking Member  
Committee on Financial Services  
House of Representatives

Subject: *Department of the Treasury, Office of the Comptroller of the Currency; Federal Reserve System; Federal Deposit Insurance Corporation: Community Reinvestment Act*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Treasury, Office of the Comptroller of the Currency; Federal Reserve System; and the Federal Deposit Insurance Corporation (collectively “the agencies”) entitled “Community Reinvestment Act” (RINs: 1557-AF15, 7100-AG29 & 3064-AF81). We received the rule from Federal Reserve System on January 25, 2024; and we received the rule from the Department of the Treasury, Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation on February 1, 2024. It was published in the *Federal Register* as a final rule on February 1, 2024. 89 Fed. Reg. 6574. This rule is effective on April 1, 2024, except for amendment numbers 29, 52, and 75, which are effective April 1, 2024, through January 1, 2031, and amendment numbers 7, 11, 18, 20, 25, 35, 39, 43, 45, 49, 58, 62, 66, 68, and 72, which are delayed indefinitely. The agencies will publish a document in the *Federal Register* announcing an effective date for the delayed amendments.

The final rule, according to the agencies, adopts final amendments to regulations implementing the Community Reinvestment Act of 1977, Pub. L. No. 95-128, title VIII, 91 Stat. 1147 (Oct. 12, 1977) (CRA). The agencies stated the rule updates how CRA activities qualify for consideration, where CRA activities are considered, and how CRA activities are evaluated.

Enclosed is our assessment of the agencies’ compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule.<sup>1</sup> If you have any questions

<sup>1</sup> The *Congressional Record* reflects that the House (170 Cong. Rec. H363 (daily ed. Jan. 31, 2024)) and Senate (170 Cong. Rec. S361 (daily ed. Feb. 5, 2024)) each received the rule from the Federal Reserve System such that the Congressional Review Act’s 60-day delay

about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.



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Enclosure

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Director – Office of Legislative Affairs  
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requirement has been met. We note that the *Congressional Record*, however, reflects that the Federal Deposit Insurance Corporation's submission was received by the House on a later date. As this is a joint rule, we believe there is no violation here since Congress did, in fact, receive this rule from one of the promulgating agencies such that the effective date meets the 60-day delay requirement.

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF THE TREASURY,  
OFFICE OF THE COMPTROLLER OF THE CURRENCY;  
FEDERAL RESERVE SYSTEM;  
FEDERAL DEPOSIT INSURANCE CORPORATION  
ENTITLED  
“COMMUNITY REINVESTMENT ACT”  
(RINS: 1557-AF15, 7100-AG29 & 3064-AF81)

(i) Cost-benefit analysis

In its submission to us, the Department of the Treasury, Office of the Comptroller of the Currency (OCC) indicated that preparation of an analysis of costs and benefits with respect to this final rule was not applicable. In its submission to us, the Federal Reserve System (Federal Reserve) indicated that it did not prepare an analysis of costs and benefits with respect to the rule. In its submission to us, the Federal Deposit Insurance Corporation (FDIC) indicated that preparation of an analysis of costs and benefits with respect to the rule was not applicable.

OCC, Federal Reserve, and FDIC are referred to collectively as “the agencies” in this enclosure.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

The agencies certified that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

OCC stated that this final rule will not result in an expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of \$182 million (\$100 million, adjusted for inflation) or more, in any one year. As independent regulatory agencies, Federal Reserve and FDIC are not subject to the Act.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to

GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

In its submission to us, OCC indicated that preparation of a statement regarding compliance with the Act was not applicable. As independent regulatory agencies, Federal Reserve and FDIC are not subject to the Act.

(v) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On June 3, 2022, the agencies issued a proposed rule. 87 Fed. Reg. 33884. The agencies received approximately 950 unique comment letters regarding the proposed rule from a wide range of commenters, including: financial institutions; non-financial institution and financial institution trade associations; community development financial institutions; financial and non-financial businesses; community development organizations; consumer advocacy groups; civil rights groups; other nonprofit organizations; federal, state, local, and tribal government commenters; tribal organizations; academics; individuals; and other interested parties. The agencies stated they considered all commenter feedback in developing this final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

The agencies determined that this final rule contains information collections under PRA. The agencies stated the title of the information collection is “OCC Community Reinvestment Act Regulation; Board Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation BB; FDIC, Community Reinvestment Act,” OMB Control Numbers OCC 1557-0160; Board 7100-0197; FDIC 3064-0092. The agencies stated the total estimated annual burden for OMB Control Number 3064-0092 is 234,974 hours; the total estimated annual burden for OMB Control Number 1557-0160 is 130,891 hours; and the total estimated annual burden for OMB Control Number 7100-0197 is 105,455 hours.

Statutory authorization for the rule

The agencies promulgated this final rule pursuant to sections 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 321, 325, 481, 1462a, 1463, 1464, 1814, 1816, 1817, 1819, 1820, 1828, 1831u, 1835a, 1842, 1843, 1844, 2901 *et seq.*, 3101 through 3111, and 5412(b)(2)(B) of title 12, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

In its submission to us, OCC indicated that the Order was not applicable to this final rule. As independent regulatory agencies, Federal Reserve and FDIC are not subject to the Order.

Executive Order No. 13132 (Federalism)

In its submission to us, OCC indicated that the Order was not applicable to this final rule. As independent regulatory agencies, Federal Reserve and FDIC are not subject to the Order.