

Community Groups Plan to Sue OCC Over CRA Rule

By Brendan Pedersen, American Banker, May 21, 2020

WASHINGTON — Three community reinvestment advocacy groups said Thursday they plan to sue the Office of the Comptroller of the Currency over its final rule to reform the Community Reinvestment Act, arguing that the agency flouted procedure and public feedback.

The joint statement by the National Community Reinvestment Coalition, California Reinvestment Coalition and Democracy Forward accuses the OCC of “unlawfully gutting” the historic anti-redlining law under the veneer of modernization.

“The OCC went against the majority of public comments and introduced new, gaping loopholes into the rules that will allow banks to reduce their focus on lower-income borrowers and communities, the very communities the law was intended to protect when it was passed in 1977,” said Jesse Van Tol, the chief executive of the NCRC. “It’s an administrative fiasco. We’ll see you in court.”

The OCC issued the rule Wednesday just as Comptroller of the Currency Joseph Otting, who championed the reforms, was preparing to announce his resignation from the agency.

Although CRA modernization has long been treated as an interagency effort, the OCC ultimately had to move [unilaterally](#) after the Federal Reserve and Federal Deposit Insurance Corp. both declined to back the rule. Otting finalized the plan, which applies only to OCC-regulated banks, [despite calls to suspend the ambitious rulemaking](#) amid the pandemic.

Community groups have long had reservations about the direction of CRA reform under Otting’s leadership.

Thursday’s announcement appears to focus on process and procedure. Government agencies are bound by the Administrative Procedure Act, which governs the timing and requirements for federal rulemaking.

“We have fought this shady rulemaking process from the start, and the fight will continue,” said Anne Harkavy, executive director at Democracy Forward.

Community groups allies had previously accused the OCC of rushing CRA reform with little public support.

“By moving forward despite an overwhelming majority of public commenters disagreeing with the framework put forth in the final rule, it is clear that the outcome was predetermined to fix the game in favor of the big banks to the detriment of communities

and the spirit and intent of the law,” said Paulina Gonzelez-Brito, executive director of the California Reinvestment Coalition.

In a statement, an OCC spokesperson dismissed the accusations. “We look forward to defending our rulemaking process and authority as well as our effort to strengthen the CRA regulatory framework by making it more transparent and objective,” the spokesperson said.

Contrary to the advocates' claims, the spokesperson said, the reforms "will encourage banks to do even more to meet the needs of their communities, including low- and moderate-income neighborhoods, and will ensure that CRA remains a powerful and relevant force for generations ahead."

Separate from the lawsuit, 15 national organizations — including civil rights and consumer protection groups such as the Center for Responsible Lending, National Consumer Law Center and NAACP — signed a joint letter condemning the OCC's final changes to the CRA.

“With the economic fallout continuing from COVID-19 and uncertainty looming for many communities traditionally underserved by the nation's financial institutions, just about everyone who has a stake in CRA, including many bankers, urged the agencies to stop the rule-making process,” the letter says. “The FDIC listened, the OCC didn't.”