BANKING
CRA RULE

The Banking Regulators' Proposed Community Reinvestment Act Rule Will Not Work, But Dramatically Improving It Is Not Complicated

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Introduction

The Fed, OCC and FDIC have been working on changing the rules for evaluating banks' compliance with the Community Reinvestment Act ("CRA") for several years. They issued a proposed rule on May 5, 2022 (the "Proposal") and are on the verge of publishing a final rule.

However, our long and detailed data and statistical analysis of the Proposal makes it clear that the Proposal will perpetuate and accentuate the significant failings of the current rule, rather than achieve the core purpose of the CRA. This Policy Brief summarizes the findings of the detailed simulation underpinning the analysis, which we recently communicated to the Agencies, and are spelled out in our supplemental comment letter. That analysis focused on the Retail Lending Test ("RLT")[1] part of a bank's CRA "performance evaluation," because it has the largest weight in the evaluation[2] (45%), and because retail lending by banks, especially to low- and moderate-income ("LMI") customers, is a central concern of the CRA.

Enacted in 1977, "against a backdrop of urban decay and lack of investment in communities," the CRA was designed "to prevent redlining," and to enforce banks' "continuing and affirmative obligation to help meet the credit needs of their local communities, including low- and moderate-income neighborhoods where they are chartered."[3]

During the last 10-15 years, CRA enforcement has fallen short of this mandate. Banks have consistently received near-perfect CRA ratings even as they steadily exited home lending while increasing their deposit bases, contrary to the letter and intent of the CRA. The Proposal keeps the loopholes of the current "Lending Test" that enabled this outcome, and it leans more heavily on provisions that are intended to measure potential demand, which we show admit no such interpretation. These features artificially and arbitrarily increase banks' CRA scores. Other features for which the Proposal provides no rationale have a dramatic negative effect on bank performance.

Our long and detailed data and statistical analysis of the Proposal makes it clear that the Proposal will perpetuate and accentuate the significant failings of the current rule, rather than achieve the core purpose of the CRA.

[1] The acronyms we use are collected at the foot of each page.

[2] This is not to diminish the importance of the other three components of the evaluation, which address Community Development Financing (30%), Retail Service and Products (15%) and Community Development Services (10%). At the same time, a bank that fails the RLT will struggle to obtain a good rating even if it does well on these three other components, while one that does well on the RLT only has to do minimally well on the other three to obtain a high rating.

We restrict our analysis of the Retail Lending Test to Home Lending. The RLT also covers Small Business and Small Farm Loans. Home Loans consistently account for about 80% of banks' annual originations, Small Farm Loans make up about 0.5%, and Small Business Loans about 20%.

[3] These are quotes from the FRB and OCC webpages explaining the CRA. https://www.federalreserve.gov/consumerscommunities/cra_history.htm. *See also,* https://www.occ.gov/publications-and-resources/publications/community-affairs/community-developments-fact-sheets/pub-fact-sheet-cra-reinvestment-act-mar-2014.pdf

Acronym Zoo:
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Without these components, the proposed rule would not only be much simpler, more defensible, and provide less incentive for gaming, it would also be more likely to achieve the intent and purpose of the law. However, those changes alone would be materially insufficient because neither the Lending Test of the current rule nor the RLT of the Proposal are equipped to detect textbook cases of redlining, the practice which prompted the passage of the CRA in the first place. To address this key deficiency, other tests that compare outcomes across communities and over time are essential. Examples are provided below.

We know that the banking agencies are deep into drafting a final rule and there is momentum at the agencies and among the CRA-allied community to finally get it done, now more than a year since the Proposal was published. Our small staff used the last year to pry an accurate version of the proposed rule from the dense text of the Proposal, create a model, clean up and input historical data, check and recheck the results, and present these findings to the Agencies.

The Agencies were well-placed to carry out the analysis and produce the results presented here and include them in the Proposal last year. However, the 679-page Proposal merely lays out the components of the proposed rule (explicitly but not concisely), provides at best cursory justifications, and no real-data applications. Plainly, the 90-day comment period has long-since closed, but equally plainly it was too short to permit any rigorous analysis. Proving that: none of these issues were identified or analyzed in some 500+ comment letters, including our own, submitted during that time.[4] Thus the suggestion that everyone should put "pens down" so the Proposal can be finalized is unwarranted.

We fully agree that it is important to complete the new CRA rules, but we believe the Agencies should consider this data-based analysis and conclusions before they finalize a flawed rule that will not achieve the stated objectives of the rule and the law. **The changes we propose are not complicated and can be included without difficulty. Importantly, our comments are confined to the Retail Lending Test, and have no implications for other banking activities covered by the CRA.**

Over the past few months, we have alerted the agencies to our analysis and presented it to Fed and FDIC staff and principals. We expected that they would either tell us that we missed something or got something wrong, that they had done similar statistical analysis and come to contrary conclusions, or that they would agree with the findings and incorporate them as appropriate as they were finalizing the rule. Unfortunately, none of that happened. Therefore, there was no choice but to file a supplemental comment letter, which we were explicitly told would be unwelcome—but not, we emphasize, because the data or analysis were wrong. However, the intended beneficiaries of the CRA are better off with this knowledge than without it and the final rule will be materially improved if it reflects this information.

Now is the time to finalize a new CRA rule that will make a meaningful difference in the lives of the tens of millions of people living in LMI communities across this country. This is the statutory mandate that the Agencies are required to fulfill. Importantly, as made clear below, it wouldn't take much to materially improve the Proposal.

[4] We examined the letters listed on the FDIC website, https://www.fdic.gov/resources/regulations/federal-register-publications/2022/2022-community-reinvestment-act-3064-af81.html. Only one comment attempted a quantitative analysis of the RLT. See, Laurie Goodman, Linna Zhu, Jun Zhu, Ellen Seidman, John Walsh, Janneke Ratcliffe, "Community Reinvestment Act Modernization, Comments on the May 2022 Notice of Proposed Rulemaking", Urban Institute, August 2022. Their analysis looked at the performance of banks in aggregate, rather than individually.

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The CRA and Home Lending: Key Historical Facts

Looking back on the first 30 years of the CRA, Eugene Ludwig[5] and coauthors[6] documented that after a rocky start, administrative changes to the CRA in the 1990s led to material increases in LMI home purchase lending by banks, especially in regions where they received CRA credit. Ludwig noted that the CRA had contributed to making LMI lending a genuine business interest for banks, whereas before "because of racial discrimination or fear of credit weakness, many banks 'redlined' entire areas of American cities as places they would not lend." Reflecting these changed business practices, the formal performance evaluations for banks introduced by CRA regulators in 1995 were consistently laudatory. Ludwig documented that as of 2008 only 4% of bank evaluations had resulted in a failing grade,[7] while 16% were "Outstanding."

The low rate of CRA exam failures that Ludwig reported has persisted to the present day. No more than 3.3% of banks has failed in any year since 2008; the average is 2%, and the failure rate was below this level every year from 2014 to 2019, the latest year for which the Agencies have tabulated data.[8] The three largest banks (JP Morgan Chase, Bank of America, and Wells Fargo) have collectively logged only one failure in their eight CRA exams since the Great Recession,[9] and that event was not related to the Lending Test, for which they never received a grade lower than High Satisfactory.

In contrast, banks' home mortgage lending has changed substantially since the Great Recession. Over the last 10-15 years, banks have systematically departed from home lending[10] and reduced their LMI lending even more. At the same time, their total deposits have grown larger. These trends are charted in Figure 1. As you can see, the Big 3 provide the most extreme example in each case. As shown in the upper-left and upper-right panels of Figure 1, by 2019 the Big 3's total loan volume had shrunk to 40% of their 2009-13 average, and LMI loan volume for this group had fallen even further, to 30% of the average. As the purple line in the upper-right panel shows, total LMI loans were at the same level in 2019

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[5] Ludwig was Comptroller of the Currency in the 'nineties, and "led the government's efforts to reform the Community Reinvestment Act and more vigorously enforce the fair lending laws." *See* https://www.occ.treas.gov/about/who-we-are/history/previous-comptrollers/bio-27-eugene-ludwig.html

[6] "The CRA: past successes and future opportunities", (2009) James Kamihachi, Eugene A. Ludwig and Laura Toh, in "Revisiting the CRA: Perspectives on the Future of the Community Reinvestment Act," https://www.frbsf.org/community-development/wp-content/uploads/sites/3/cra_past_successes_future_opportunities1.pdf

[7] Overall CRA rating grades are "Outstanding", "Satisfactory", "Needs to Improve", and "Substantial Noncompliance". Lending Test (and RLT) grades are the same, except "Satisfactory" is split into "Low Satisfactory" and "High Satisfactory". In both cases, "Needs to Improve", and "Substantial Noncompliance" are regarded as failing grades.

[8] These figures count each bank the same, irrespective of size. In 2019, about 1500 banks had CRA exams, so a percentage point of failures corresponds to about 15 banks. Aside from 2012 (when Wells Fargo failed its CRA exam), and 2014 (when Fifth Third and Regions Bank failed their exams), large banks have not failed, and assets of banks failing their exams make up a similarly small share of total bank assets.

[9] In 2012, Wells Fargo's grade was Needs to Improve, the report citing "fair lending and other illegal credit practices". That year, their RLT grade was Outstanding.

[10] This shift of home mortgage origination from banks to nonbanks has been widely documented. See for example: "Trends in Mortgage Origination and Servicing: Nonbanks in the Post-Crisis Period" FDIC Quarterly, Vol 13, Number 4, 2019. https://www.fdic.gov/analysis/quarterly-banking-profile/fdic-quarterly/2019-vol13-4/fdic-v13n4-3q2019-article3.pdf. We use data from the CRA Retail Loan Lending Test Table provided on the Federal Reserve website to document lending and deposit trends, and base all our calculations on these data. *See* https://www.federalreserve.gov/consumerscommunities/data_tables.htm.

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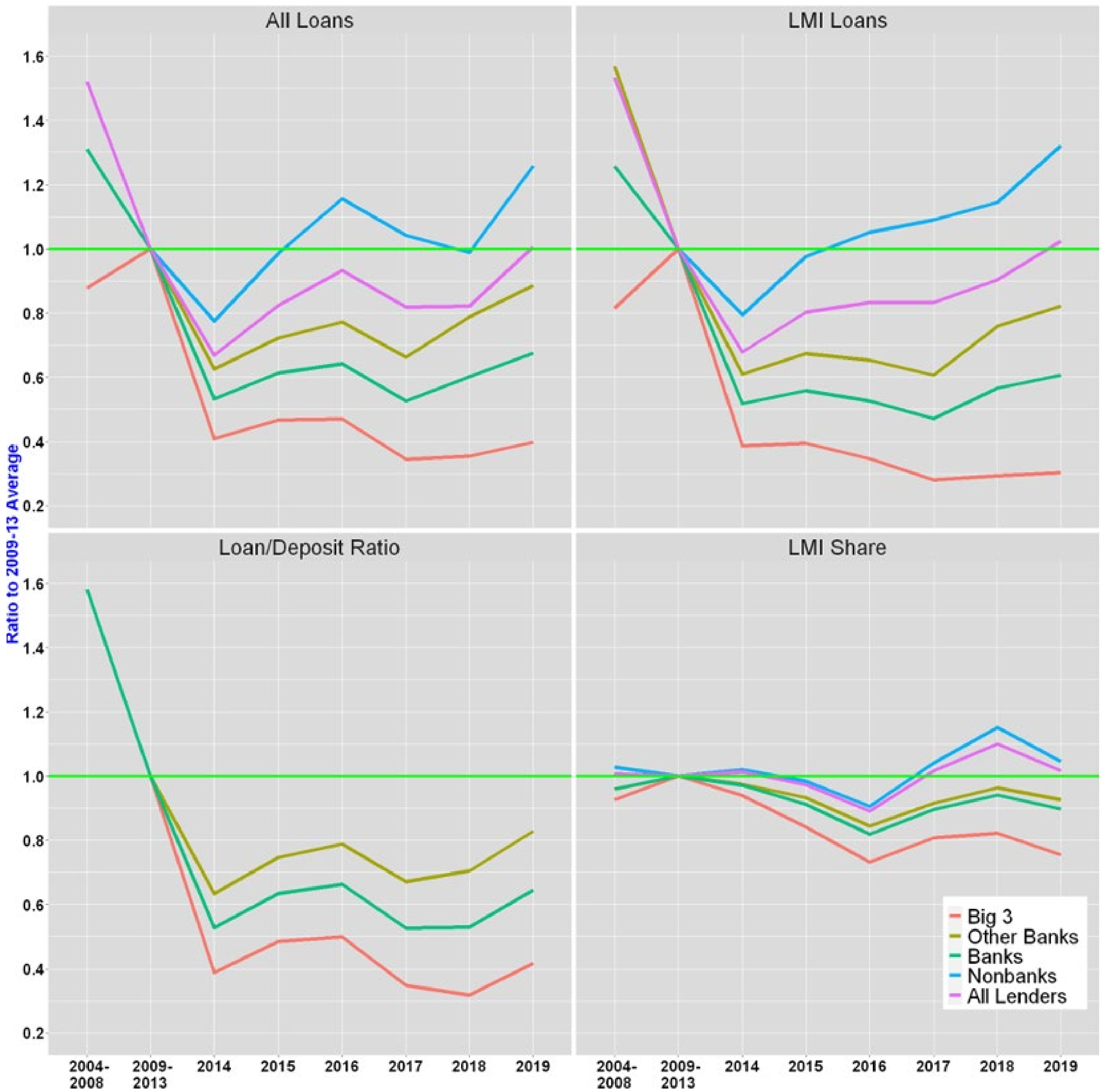
as a decade earlier, because LMI lending by nonbanks had steadily grown since 2014 to approximately 30% higher than the 2009-13 average. It is an extreme stretch to interpret banks' role in these events as satisfying their continuing and affirmative obligation to provide credit to LMI communities.

FIGURE 1: Lending History Relative to 2009-13 Average



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Why does the current Lending Test fail so few banks?

The Lending Test of the current CRA rule examines a bank's LMI lending and its loan/deposit ratio, and accounts for 50% of the bank's CRA rating.[11] Given the data just discussed, how did so few banks fail their CRA performance evaluations? How did the largest banks come by such glowing evaluations? As explained below, the current rule is blind to banks' exit from LMI lending because it does not track a bank's lending over time. Instead, it compares lending performance **across** lenders at each point in time, which will raise no red flags when faced with Figure 1.

In each geographical "Assessment Area" (AA) designated by a bank, the Lending Test compares the bank's LMI lending share with the corresponding share for all lenders (or "Market Benchmark") from two demographic perspectives ("Geography" and "Borrower"), and for LI and MI groups in each case, for a total of four "Distribution" tests. These four LMI share tests are **blind to a bank lowering its total and LMI lending proportionately,** which, to a first approximation, is what Figure 1 depicts.

Figure 2 is an attempt to clarify this terminology, and related terms that will appear later. The essential difference between the two demographic perspectives is that a loan qualifies for the (numerator of the) LI geography lending share because of the location of the property (in a LI census tract), irrespective of the borrower's income.

FIGURE 2: (Retail) Lending Test Lexicon

Demographic Perspective	Geography	Borrower
Meaning	Census Tract	Family
Definition of LI(MI)	Median tract income < 50(80)% of AA median income	Family income < 50(80)% of AA median income
Community Benchmark	LI(MI) tracts' share of AA owner-occupied housing units	LI(MI) families' share of AA families
Market Benchmark	Share of AA loans on housing located in LI(MI) tracts	Share of AA loans made to LI(MI) families

Banks' LMI lending shares did decline somewhat over time, as the lower-right panel of Figure 1 shows, and were in aggregate (over banks and their AAs) lower than the Market Benchmark. Why didn't this lead to Lending Test failures? Apparently, in many instances examiners opted to test a bank's performance against the corresponding "Community Benchmark" (for example, the ratio of LI families to total families, or the ratio of owner-occupied residences in LI tracts to total owner-occupied residences) if it was lower than the Market Benchmark, claiming that it was a better measure of demand for loans.

[11] Darryl E. Getter, The Effectiveness of the Community Reinvestment Act, Congressional Research Service, 2015.

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We don't know how much this practice contributed to higher scores, because the regulators never made their criteria explicit, or tabulated their results publicly.

The "Lending Activity" component of the Lending Test benchmarks a bank's lending in relation to deposits against all other banks' contemporaneous loan/deposit ratio. This test will raise no alarm if all banks lower their home lending uniformly (as in the bottom left panel of Figure 1), even though this can involve an adverse change in the mix of "credit and deposit services" they offer.

Almost everything written on the CRA identifies eliminating redlining as one of its most pressing goals. **However, the Lending Test will not detect redlining if it is practiced by all lenders in a geography**. If all lenders avoid a group of (potential) borrowers, then the Market Benchmark simply measures their common rate of lending and so does not penalize participating lenders. A Community Benchmark cannot help here: redlining depresses LI families' and LI tracts' loan shares relative to their respective Community Benchmarks, so Lending Test comparisons are more likely to use the Market Benchmark. This is a first inkling of the tenuous relationship between Community Benchmarks and potential demand, to which we shall return below.

To summarize, the disconnect between banks' recent LMI lending performance and their CRA evaluations is consistent with the Lending Test's focus on lending shares or loan-to-deposit shares at a point in time, as opposed to levels over time. In terms of Figure 1, it is as if the Lending Test effectively ignores the top two panels and evaluates the ratios in the bottom two panels against somewhat permissive thresholds. When the major achievement Ludwig identified[12]—the growth in banks' LMI lending—was reversed, the Lending Test simply did not pick it up.

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Meet the New Rule...

The focus here is on the Lending Test in the current CRA rule because many of its features, along with their vulnerabilities, persist in the Proposal's RLT. The RLT is formulated as a series of explicit rules and reduces examiner discretion to a minimum –a huge and positive leap in transparency. Ultimately, though, it is little more than a transparent version of the current rule.[13]

[12] *Supra* n. 3.

[13] Many organizations have called for modernization of CRA performance evaluations, to make the tests more data-driven, to take account of the race of borrowers, the role of nonbanks, the increased range of consumer products financed with credit, and the obsolescence of the physical branch model underpinning the definition of geographical Assessment Areas. See, for example, Laurie Goodman, Jun Zhu, John Walsh "The Community Reinvestment Act: What Do We Know, and What Do We Need to Know?", Urban Institute 2019. *See also,* Susan Wachter "Modernizing the CRA (While Preserving its Spirit)" Penn IUR Policy Brief, December 2019. https://penniur.upenn.edu/uploads/media/Modernizing_the_CRA.pdf. *See also,* National Community Reinvestment Coalition 'Adding Robust Consideration of Race to Community Reinvestment Act Regulations: An Essential and Constitutional Proposal", September 2021, https://ncrc.org/adding-robust-consideration-of-race-to-community-reinvestment-act-regulations-an-essential-and-constitutional-proposal/

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The four "Distribution" tests in the old CRA rule (which we call collectively the "Score Test") remain in the new rule. A significant change is that they now always default to comparison with their respective Community Benchmark ("CB"), but only if that is more favorable to the bank than the Market Benchmark ("MB") comparison (which we refer to as the "best of" clause). The elements of the Score Test are laid out in Figure 3. There are five grades that a bank can receive in one of the four Distribution Tests, or any aggregate thereof. SN and NI are considered failing grades, while the rest are passing. The Score Test in effect scores the bank separately against the Market Benchmark and the Community Benchmark scaled by their respective multipliers in Figure 3 and uses the best of the two. For example, say a bank's loan share for LI families is 85% of the LI families MB, but 92% of the LI families CB. This scores Low Satisfactory ("LS") against the MB (85 exceeds 80, but not 110), and scores HS against the CB (92 exceeds 90), so HS, the best of the two, is the bank's grade in that test (even though it only gets to LS against the MB). Roughly, if the CB is less than 1.25 times the MB, the bank will perform better against the CB than the MB.

FIGURE 3: Benchmark Parameters of the Score Test

	Benchmark Multipliers (%)				
	Acronym	Market	Community	Score	Community/Market Multiplier Ratio
Substantial Noncompliance	SN	0	0	0	0.00
Needs to Improve	NI	33	33	3	1.00
Low Satisfactory	LS	80	65	6	1.23
High Satisfactory	HS	110	90	7	1.22
Outstanding	OS	125	100	10	1.25

The "Lending Activity" test is made explicit by the "Retail Lending Volume Screen" ("RLVS"), which caps the bank's AA score if its loan-to-deposit ratio is less than 30% of the ratio of all other banks in the AA. Otherwise, the bank scores a weighted average of its four category scores in the AA. Any bank that does not achieve at least NI[14] in at least 60% of its AAs receives an overall failing grade (which we call the "60% Rule").

All these comparisons are point-in-time, and so still fail to detect redlining because they will not penalize banks that shrink their total and LMI home loans proportionately over time.

[14] The Proposal gives examiners some discretion on this point.

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Community Benchmarks

As just explained, the RLT promotes CBs to the same status as MBs. The Proposal rationalizes them as measures of potential demand, although does not elaborate and provides no data to support this assertion. In a series of examples in [our supplemental comment letter] we show that CBs have nothing to do with potential demand. In the way they are used in the RLT, CBs are completely irrelevant to banks' LMI lending performance.

For example, say that in an AA the average LI family is in the market for a mortgage every twelve years, while the population of families demands a new mortgage every six years. Then the LI share of total demand for home loans will be half the LI CB (the LI share of families). Similarly, if MI families are in the market for a new mortgage every three years, MI potential loan demand will be twice the MI families CB. One might expect these outcomes because growing families are more prevalent among MI families, while groups with low loan demand are common among LI families: they may be very young renters, or unable to afford homeownership. The actual justification is unimportant; the illustration shows that the CB only represents potential demand if every family type has roughly the same mortgage turnover rate, which is extremely unlikely.

Figure 4 "Families" Community Benchmark versus Market Benchmark, by County, 2019

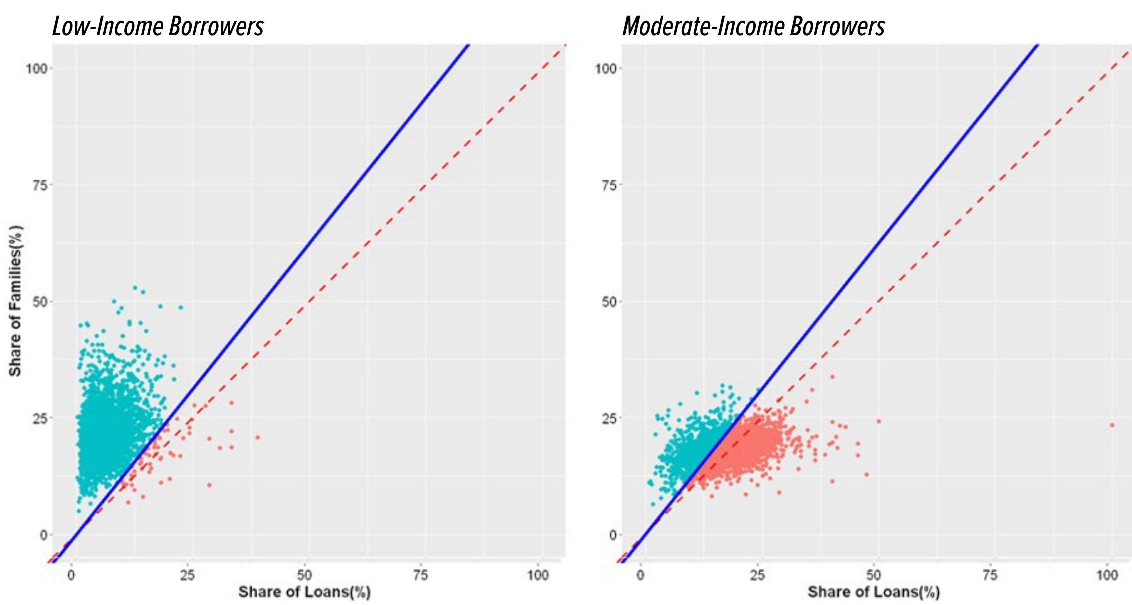

Figure 4 graphs the 2019 Borrower CB ("Share of Families") against the MB ("Share of Loans") for each of the 3142 counties in the 50 states and Washington D.C. Each county is represented by a dot. The blue line has a slope of 1.25 to represent the approximate dividing line created by the "best-of clause" and the benchmark multipliers in Figure 3. For counties lying above (below) this line, represented by blue(red) dots, performance against the MB (CB) will be the reference for the "best-of clause".

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Some perspective is provided by Figure 4, which plots the LI and MI families CBs against their respective MBs by county (each represented by a dot). The share of LI families exceeds the LI share of loans in all but a few counties (almost all the dots are above the red dashed line). Does this mean that demand for loans by LI families is larger than their share of actual loans? Not necessarily. LI families likely include a disproportionate share of people with a low demand for home loans, relative to the county population as a whole: young renters starting out, and people with insufficient resources to be in the market for a mortgage. Does this mean that LI families are getting their fair share of loans? Not necessarily, either. For a definitive answer, we need to know just how many of each "demand group" are LI families, and the size of their loan demand. The CB tells us nothing about these metrics; it weights each family equally, rather than by their demand.

For MI families, there are many counties where the CB is lower than the MB. In fact, in about two-thirds of all counties, the CB provides a lower hurdle for banks than the MB, and so is the one they have to beat. This is significant, as banks' LMI loan shares are materially lower than nonbanks' and so do not compare favorably with the MB (Figure 1). Given that we have no idea of the MI share of loan demand in these (or any) counties, the RLT's use of the CB and best-of clause is a fortuitous lifeline for banks operating in these counties.

Retail Lending Test Outcomes are Dominated by its Most Questionable Parts

We used the steps and conditions described in the Proposal to replicate the RLT and calculate its results for individual banks. This provides a preview of how many banks will pass or fail in the future, and of the contributions to their performance of the several components of the test. Figure 5 summarizes failures for the RLT and several variations. Each bank is represented by its share of total home loan originations of the 625 banks we analyzed.[15]

The *RLT* row documents that banks representing 23% of total originations would have failed the RLT in 2019, the most recent year in the dataset. The *Score Test,* which occupies most of the RLT exposition in the Proposal, only accounts for 6 of these 23 percentage points, while adding the Retail Loan Volume Screen only takes the failure rate to 8% of total originations. The remaining 15 of the 23 percentage points evidently result from the 60% Rule,[16] which is troubling because it occupies just a single paragraph in the Proposal, where its existence is announced without any stated rationale.

[15] Around 2900 depository institutions covered by the CRA made home loans in 2019. We restrict our analysis to the 625 lending in the 50 states and Washington DC for whom Assessment Areas are defined in the Agencies' data. These banks account for about 75% of 2019 home loans by covered banks.

[16] The Proposal applies the 60% Rule to the bank's performance in each AA, aggregated across the Retail Lending Test and the other three tests (see footnote 1). We can only reconstruct the RLT, and so we restrict our calculation of the 60% Rule to RLT results by AA. We do not believe this introduces any bias relative to the full 60% Rule.

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Figure 5: Retail Lending Test Failure Rates, 2019

	Market Benchmark	Community Benchmark	"Best-of" Clause	Retail Loan Volume Screen	60% Rule	Loan Value Share of Failing Banks
RLT	✓	✓	✓	✓	✓	23
Score Test	✓	✓	✓			6
No 60% Rule	✓	✓	✓	✓		8
No CB/Best-of Clause	✓			✓	✓	60
MB and RLVS	✓			✓		36
MB Only	✓					20

A check mark in a cell indicates that the RLT component at the head of the cell's column is present in the test combination on the far left of the cell's row. The performance of that test combination, expressed as the percentage share of total home loan volume of banks failing is in the rightmost column of the table. For example, the first row documents the performance of the full Retail Lending Test, which includes all five components, while the version in the fifth row only includes the Market Benchmark and Retail Loan Volume Screen.

There is no economic rationale for Community Benchmarks or the "best-of" clause, as described above and detailed in our supplemental comment letter. These components shield banks against the phenomenon illustrated in Figure 1: their LI and MI loan ratios have fallen below those of other lenders and therefore the MB. Figure 5 provides three different estimates of the value of this shield. If banks were rated only on the Score Test, the CB and "best-of" clause would lower their failure rate by 14 percentage points of loan originations (20 in the MB Only row minus 6 in the Score Test row). However, interactions with other RLT features increase this number dramatically. If banks are also subject to the RLVS, the benefit jumps to 28 percentage points of loan originations (36 in the MB and RLVS row minus 8 in the No 60% Rule row). If we include the 60% Rule (so we are comparing the full RLT with and without the CB and "best-of" clause), the CB/best-of combination lowers failures by 37 percentage points of loan originations (the difference between fourth and first rows).

Figure 5 also reveals significant instability in the results. It is hard to attribute a single "failure share" to an element of the test because the results of these calculations are extremely sensitive to what else is in the test recipe. For example, combined with the Score Test, RLVS only adds 2 percentage points to the failure rate (8-6), while when it is paired with the MB alone, it adds 16 percentage points (36-20). Similarly, the 60% Rule variously accounts for 15 = 23-8, or 24 = 60-36 percentage points. This suggests there is a lot of interaction among the various components, which is unwarranted because they have no economic relationship to each other.[17]

[17] This interaction may be amplified by the pass/fail nature of the RLVS and 60% Rule.

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The dire consequences, weak economic foundation, and pass/fail features of the RLT's largest contributing factors provide motive and opportunity for banks to cherry pick where they focus their loan efforts. For example, it pays to set up shop in areas where the CB is sufficiently lower than the MB, to benefit from the best-of clause. Similarly, areas where loan-to-deposit ratios are low are also attractive. These incentives are contrary to the intent of the CRA. In our supplemental comment letter we document the wide variation in the cost of satisfying RLT across counties. For example, by one measure, the Score Test is three times harder to pass in Allegheny County, PA than it is in LA County, CA. We do not believe that banks are going to rush to arbitrage the RLT in this way. At the same time, researchers have documented how changes in CRA incentives are correlated with significant shifts in lending by banks.[18]

For all its drawbacks, the logically coherent and defensible part of the RLT is the comparison with the Market Benchmark. This measures how a bank compares with its peers, but, while necessary, is still not sufficient. For example, to provide some safeguards against redlining, some other metrics are needed. Our comment letter investigates briefly one possibility based on the families Community Benchmark, which scores each community according to its rate of aggregate LI lending per LI family.[19] Banks get higher scores for outperforming the Market Benchmark in communities where this metric is low. To address the steady exodus of banks from home lending and LMI lending in particular, other tests are required, and deposits seem pivotal here. While the letter of the CRA links a bank's lending to the deposits it takes, the implementation in both Lending Test and RLT benchmarks the bank's lending in relation to deposits against other banks. This will not address a correlated exodus by banks in general, as we have stressed repeatedly. The weak link is that the metric is relative to other banks. Instead, an absolute metric, which requires the bank to extend a certain dollar volume or count of LMI loans for each dollar of deposits is imperative for evaluation consistent with the intent and purpose of the CRA. "Exchange rates" like this are at least implicit in other components of CRA evaluations that score community development grants and banking services.

Conclusion

This discussion, which summarizes the detailed analysis in our supplemental comment letter, demonstrates that the RLT component of the Proposal will not achieve the letter, spirit, or mandate of the CRA, serve LMI communities as intended, or safeguard against redlining. While it is late in the process, there are two relatively modest, easy-to-make changes to the Proposal that would materially improve the RLT, the Proposal, and the CRA rule:

1. Remove the 60% Rule, and
2. Remove the CB/Best-of Clause.

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[18] *See*, *e.g.*, Lei Ding, Leonard Nakamura, (2017) ""Don't Know What You Got Till It's Gone" — The Effects of the Community Reinvestment Act (CRA) on Mortgage Lending in the Philadelphia Market", Working Papers 17-15, Federal Reserve Bank of Philadelphia.

[19] To a first approximation, this does not run up against the problems of CBs we have laid out earlier, because it is comparing the same LI metric across counties.

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These steps limit the RLT to the MB and the RLVS, which are closest to the intent of the Act. The simulation of this version of the RLT (Figure 5, fifth row) produces a 38% failure rate for banks (by loan volume), compared with 23% for the RLT as laid out in the Proposal. After these changes are made and the Proposal is finalized, the Agencies should develop a plan to supplement the RLT with tests that track banks' LMI lending in relation to their deposit taking, and according to how underserved by lending are the communities in which they operate. The first is necessary for the practical purpose of staunching the decline in home lending by banks, which is contrary to the intent of the CRA, but a loophole in CRA tests. The second is necessary because at a minimum any CRA test should be robust against redlining. Note that none of these suggestions involve any changes to any other provisions of the Proposal addressing Community Development Financing, Retail Service and Products, and Community Development Services.

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