SOLOMON HESS Capital Management | CRA news

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This regulatory filing by the OCC will be a fully formed NPR as opposed to a more preliminary ANPR. "I don't believe in waiting. I want to get straight to the chase," said acting Comptroller of the Currency Brian Brooks in an article in American Banker. Left, Brooks.

OCC Finalizing NPR on CRA Evaluation Benchmarks

When the OCC released its final rule to modernize the CRA on May 20, the agency acknowledged further work needed to be done on the calibration of performance evaluation benchmarks and committed to a later release of a Notice of Proposed Rulemaking (NPR) to address this specific issue in full. The OCC's final rule became effective on October 1 with phase-in compliance dates to begin in January 2023.

Evaluation benchmarks are the final piece of the OCC's new CRA evaluation framework. On October 26, acting Comptroller of the Currency Brian Brooks said that the agency has a completed draft of the document that is going through final internal review. Brooks said that he expected the NPR to be released "very soon." ■

Is an Interagency Approach on CRA Modernization Attainable?

Community Reinvestment Act (CRA) stakeholders are holding out hope that the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (FED) and the Federal Deposit Insurance Corporation (FDIC) can come together to provide a consistent approach to the regulation of the CRA.

The timing of the FED's Advanced Notice of Proposed Rulemaking (ANPR) on September 21 was seen as a positive both because it signaled that the FED is moving forward in its CRA modernization efforts and also because it leaves ample time for the agencies to work together before the phase-in compliance to the OCC's final rule begins.

Comments by FED Chair Jerome H Powell in the FED's press release indicate that the FED is open to doing more interagency work towards a unified approach. He said, "By releasing a thoughtful and balanced ANPR and providing a long period for comment, the FED is hoping to build a foundation for banking agencies to come together on a consistent approach to CRA that has the broad support of the intended beneficiaries as well as banks of different sizes and business models."

Industry experts who have carefully reviewed both the OCC's final rule and the FED's ANPR seem to feel that there are enough parallels between the two plans that there may *(continued on page 3)*

SBA 7(a) Loan Profile: TJ's Tasty Corner, Kings County, New York

The SBA 7(a) loan to TJ's Tasty Corner was originated by Accion East, a nonprofit microfinance organization that lends with the mission of empowering small business owners with access to working capital and financial education. Accion offers business loans up to $50,000 and specializes in working with small business owners who need more flexible terms than those found at a bank due to the business type, length of time in the business or credit history. Left, restaurant take out window.

The SBA Loan Fund is a Community Development Entity (CDE), as designated by the Community Development Financial Institutions (CDFI) Fund. To qualify and maintain its status as a CDE, the SBA Loan Fund has demonstrated a primary mission of serving or providing investment capital for low-income communities or low-income persons. One of the ways the SBA Loan Fund provides investment capital to support low-income communities is its practice of acquiring community development loans originated by mission-driven lenders.

One example of such a loan acquired by the SBA Loan Fund is the SBA 7(a) loan to TJ's Tasty Corner. The business was formed on June 3, 2019 as a startup West Indian/Caribbean take out restaurant located in the Flatbush *(continued on page 3)*

Inside

Federal Reserve Board Issues ANPR on CRA Modernization with 120-day Comment Period Ending on February 16, 2021

On September 21, the FED issued an ANPR that invites public comment on a proposed approach to modernize the regulations that implement the CRA. The ANPR has a 120-day comment period that began on October 19 and ends on February 16, 2021.

In a speech given at the Urban Institute on September 21, FED Governor Lael Brainard said that the CRA regulation must evolve along with the landscape of banking and community development. "It has been 25 years since the last significant revision to the CRA regulation, so it is important to get reform right," Brainard said. CRA stakeholders, bankers, community groups and advocacy groups are encouraged to submit comments.

The key changes proposed by the FED are driven by six key goals:

To advance the core purpose of CRA by promoting financial inclusion. Proposes giving banks greater clarity that their community development activities will be considered, especially for activities that target underserved populations, and to designate certain areas, based on persistent inequities, where banks could receive credit for activities that often lie beyond the boundaries of a bank's branches.

DIFFERENT STAGES IN THE RULEMAKING PROCESS:

Advanced Notice of Proposed Rulemaking: *An agency in the preliminary stages of rulemaking may publish an ANPR to invite participation in the shaping of a proposed rule and starts the notice-and-comment process in motion.*

Notice of Proposed Rulemaking: *The official document that announces and explains an agency's plan to address a problem or accomplish a goal. The proposed rule and public comments received on it form the basis of the final rule.*

Final Rule: *A federal administrative regulation that advanced through the proposed rule and public comment stages and is published in the Federal Register with a scheduled effective date.*

To meet the needs of LMI individuals and communities. Proposes to assess large retail banks using a separate Retail Test and a Community Development Test with separate financing and service subtests.

To address changes in the banking industry. Proposes to tailor facility-based assessment area definition based on bank size. For large banks that conduct a large portion of business outside their facility-based assessment areas, proposes options for determining where banks should be assessed.

To provide clarity, consistency and transparency and to tailor performance evaluations to bank size and business model. Proposes a metrics-based approach that is calibrated over 6,000 written public CRA evaluations. Proposes that small retail banks could continue to be evaluated under the current framework, that wholesale and limited purpose banks continue to be only evaluated on community development activities and recognizes special circumstances of small banks in rural areas.

To minimize data collection and reporting burden. Proposes metrics that would rely on existing data collections and public data sources and would exempt small banks from deposit and other data collection requirements.

To clarify and expand eligible CRA activities to focus on communities. Proposes updating and clarifying which community development activities qualify and proposes to publish and regularly update an illustrative, non-exhaustive list of qualifying activities.

"We must ensure that the CRA is a strong an effective tool to address ongoing systemic inequities in access to credit and financial services for LMI, minority individuals and communities. Reforms to the CRA should strengthen the engagement between banks and their communities." Brainard said. ■

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www.facebook.com/tjstastycorner/

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SBA Achieves Historic Small Business Lending for Fiscal Year 2020, 28 Oct. 2020, www.sba.gov/article/2020/oct/28/sba-achieves-historic-small-business-lending-fiscal-year-2020.

The 24th annual CRA & Fair Lending Colloquium hosted by Wolters Kluwer is being presented in a virtual format over three days: Oct 15, Nov 18 and Dec 7. Registration is free.

To learn more and register, visit www.cracolloquium.com

Interagency approach attainable? *(from page 1)* be a path for the agencies to converge around a joint rule. At a high level, both plans have the ultimate goal of ensuring that CRA investments go to the communities most in need of financial access and credit. Both plans have strong consensus on the major areas requiring reform, including: clarifying bank activities that should receive CRA consideration, updating where CRA activities count, and creating a more objective means to measure CRA activity.

"Both proposals have a lot of the same modules: retail lending and distribution analysis, community development analysis, having better clarity around eligible activities. They're just put together differently," said Buzz Roberts, president and CEO of the National Association of Affordable Housing Lenders in an article published in American Banker.

While the parallel plans do share similarities, they are not without major differences. One difference is that the FED proposes to continue to evaluate retail lending and community development activities as separate performance components, while the OCC's rule combines the components into a single metric, based largely on the dollar value of the qualified activities. A second difference is that the FED proposes to use existing data collections and public data sources while the OCC may require banks to submit new compliance data.

Notably absent from both plans is the support of the FDIC, which joined the OCC in its ANPR in December 2019 but not the subsequent final rule in May. FDIC Chairman Jelena McWilliams has said that the FDIC may still adopt the OCC's final rule at a later date and that the FDIC would like to see a consistent interagency approach to the CRA rules. She herself noted that the FED's ANPR is "substantially similar" to the OCC's final rule.

The FDIC supervises roughly 60% of the nation's banks. OCC-regulated and FED-regulated banks each make up roughly 20% of bank charters, though some are the biggest in the industry by asset totals. ■

SBA 7(a) Loan Profile: Foodtown of East Harlem, New York County, New York

East Harlem, also known as "El Barrio," is one the largest predominantly Hispanic communities in New York City. With a high population density and a lack of nearby supermarkets, the neighborhood has little access to fresh fruit and vegetables and a low consumption of fresh foods. Compared to the Upper East Side, supermarkets in Harlem are 30% less common. Foodtown of East Harlem opened in 2018 and is located in a low-income census tract. Left, groceries.

Another example of the type of loan in the SBA Loan Fund portfolio is the 7(a) loan to Foodtown of East Harlem, an independently owned grocery store that provides fresh produce and meats, groceries, baked goods and health products. This location opened in East Harlem in 2018, in an area where access to fresh produce is limited due to a number of supermarket closures over the years, most notably the closure of Pathmark supermarket in November 2015.

Proceeds of the loan were used to finance the property on which the business is established. The borrower self-reported that this SBA 7(a) loan supported the creation and/or retention of 50 jobs. This business provides access to food for individuals in a low-income area. ■

Implementation of CARES Act Propels SBA Lending to Record Levels

The implementation of The Coronavirus Aid, Relief and Economic Security (CARES) Act passed by Congress and signed into law in March has led to a dramatic increase in loan volume guaranteed by the Small Business Administration (SBA). The SBA reported on October 28 that the agency provided a total of 14.5 million loans worth more than $736 billion related to the Paycheck Protection Program (PPP) and Economic Injury Disaster Loan Program (EIDL). Loans guaranteed under the PPP program alone accounted for 5.2 million of those loans worth roughly $525 billion. Loans guaranteed through traditional SBA lending programs amounted to 54,800 loans worth roughly $28 billion, which was in line with last year's levels. The SBA flagship 7(a) program made roughly 42,000 loans worth $22.5 billion. ■

SBA 7(a) loan profile *(from page 1)* neighborhood in Brooklyn. TJ's Tasty Corner is family-owned and operated by Howard Smith and his three adult children. Mr. Smith has eight years of experience owning a similar business in a nearby neighborhood.

Above, a restaurant worker.

Proceeds of the SBA 7(a) loan were used to purchase equipment to open the business. The borrower is located in a moderate-income census tract and a CDFI Fund Qualified Investment census tract in Kings County, New York. The borrower self-reported that this loan supported the creation and/or retention of four jobs. This is a minority-owned business. ■

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SBA Loan Fund Impact: Supporting Community Development

Since inception in 2004, the Solomon Hess SBA Loan Fund has invested over $2.2 billion in small business loans. These loans, made to over 4,200 small businesses located in 47 states, have helped to create and/or retain over 62,000 jobs. Over 70% of the loans in which we have invested are located in low– and moderate-income or otherwise economically distressed census tracts. The majority of these loans are made to under-served small businesses that do not have access to conventional commercial debt.

Managing Good Capital Well

Solomon Hess Capital Management ("Solomon Hess") is an alternative asset manager specializing in fixed income. Our mission is to provide investors with community and economic development-focused investment funds that generate both competitive risk-adjusted returns and positive quantifiable community impact. Founded in 2004 and located in Falls Church, Virginia, Solomon Hess has over $700 million of assets under management. Solomon Hess is Fund Manager to the SBA Loan Fund and investors include banking institutions of all sizes that are seeking Community Development Investment or Lending test credit within the Community Reinvestment Act (CRA) rules via exposure to SBA 7 (a) loans and related assets. Other investment opportunities with Solomon Hess include investing in our Absolute Return strategy. We offer our strategies as funds or separate accounts.

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The Solomon Hess SBA Loan Fund LLC attempts to provide its investors with CRA credit related to their participation in the Fund. Investment decisions are not always exclusively based on the economic characteristics or investment merit of a specific asset. Certain CRA eligible securities sought by the Fund in specific geographies may not provide as great an economic benefit to the Fund as the same securities located in non-CRA geographies. The Fund may engage in transactions at times for reasons related to CRA considerations that may not be desirable from an investment standpoint. If one or multiple federal banking regulators, such as the OCC, FDIC or the Federal Reserve Board, were to deem an investment in the Fund as not qualifying for CRA credit, the impact to Fund investors could be material.