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Trump Administration Seeks to Change Rules on Bank Lending to the Poor

Regulators plan to revamp rules governing banks under the Community Reinvestment Act



Joseph Otting, comptroller of the U.S. currency, left, and Steven Mnuchin, U.S. Treasury secretary, PHOTO: ANDREW HARRER/BLOOMBERG NEWS

By *Rachel Louise Ensign and Ryan Tracy*

83 COMMENTS

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The Trump administration plans to unveil a major revision to decades-old banking rules that would update lending to poor borrowers.

Changes to the regulations of the Community Reinvestment Act—a law first enacted in 1977—could potentially transform the way banks make billions of dollars in loans, investments and donations to poorer customers. In all, they could make it easier for banks to meet certain lending requirements and lower penalties for compliance problems.

Community groups that support the law fear that any rollback could mean poorer people over time would have less access to loans and banking services. In recent years, for example, some lenders have focused on serving more affluent customers. The CRA, though, generally has prevented banks from focusing only on the wealthy.

Some of the government's changes have already gone into effect. In early 2018, the Treasury Department is planning to unveil broader recommendations to revamp the government's enforcement of the CRA, according to a Treasury spokeswoman.

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Tougher Test
Share of banks that got an "outstanding" rating under the Community Reinvestment Act test.
Share of banks that got an "outstanding" rating under the Community Reinvestment Act test.
Source: Congressional Research Service Analysis of FFIEC data
Source: Congressional Research Service Analysis of FFIEC data

The law was originally passed to stop “redlining”—a practice where banks wouldn’t lend money in certain poor neighborhoods, often hurting black and minority residents. In recent years though, it has become a source of conflict between community groups that want the rules to be enforced more strongly and bankers who argue the rules around CRA haven’t kept up with technological changes and penalize activity that isn’t directly tied to the act.

While both sides generally agree that CRA helps lower-income communities,

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debate has intensified about how it can be improved. Community groups say the law should be expanded in order to bring opportunity to more low-income areas, while banks say they would do a better job of helping these people if the law became more flexible and less bureaucratic.

“Community groups don’t like the way CRA is today, the banks don’t like the way CRA is today, and regulators don’t like it,” said Comptroller of the Currency Joseph Otting, whose agency is also planning changes to the way it regulates banks’ compliance with the law. “I have a very strong viewpoint of how to fix this.”

Since the law’s inception, regulators and Congress have turned it into an extensive public test evaluating how many loans, branches and investments a bank has to serve the poor. The test uses complex formulas to grade banks, looking at mortgage data, branches in lower-income areas and loans to build apartments. Bad grades mean restrictions on banks’ activities including mergers.

While Treasury officials aren’t expected to advocate for a repeal of the CRA, they plan to propose changes that they say would make the test more transparent, modern and consistent. “Banks spend billions and billions and billions of dollars fulfilling their CRA obligations,” said Treasury Secretary Steven Mnuchin at a congressional hearing last June. “I want to make sure [it] is absolutely going to help communities and isn’t just a check the box to satisfy regulators.”

It is still unclear what many of the administration’s proposed changes will be, but some important potential changes, as well as some already enacted, make it easier for banks to pass the exam.

A major part of the current exam, for instance, looks to tally how many “community development” loans, investments and services a bank has provided. That largely includes measures targeting poor people in the areas where a bank operates, such as funding affordable housing.

Mr. Otting has floated the idea of expanding the types of activities that fall under this category by allowing small-business loans to count as well.

The American Bankers Association has asked to expand the “community development” definition even further to include infrastructure lending and activities that don’t solely benefit the poor. They say this will free banks up to do more to help communities, such as revitalizing struggling rural areas.

The fair-lending advocacy group the National Community Reinvestment Coalition argues that expanding the definition of “community development” would diminish the services available to the poor and inflate banks’ CRA ratings. “If you begin to move away from the focus on income and class of the borrower and begin to expand it, you’re really changing the law,” said John Taylor, president of the group.

Mr. Otting in his inaugural OCC press briefing Dec. 20 also talked about changing the grading of the test. Currently, most banks get a “satisfactory” grade, with not as many getting outstanding or unsatisfactory marks.

He added that he wants to circulate potential rule changes to other regulators within 60 days, with an eye toward a formal public proposal later this year.

Mr. Otting and Mr. Mnuchin dealt with the CRA when they were senior executives at OneWest Bank, now part of [CIT Group](#) Inc. Now, they are part of the Trump administration’s financial team, which already gave bankers a major piece of relief on a CRA-related issue late last year.

During the Obama administration, officials penalized banks’ CRA grades for a wide range of alleged misconduct, including issues with overdraft charges to allegedly discriminatory auto loans made by car dealers. Many banks had their “outstanding” ratings lowered. Officials also pursued new redlining cases against banks, an issue that hadn’t been at the forefront for decades, under other laws related to the CRA, saying that lending discrimination wasn’t a vestige of the past.

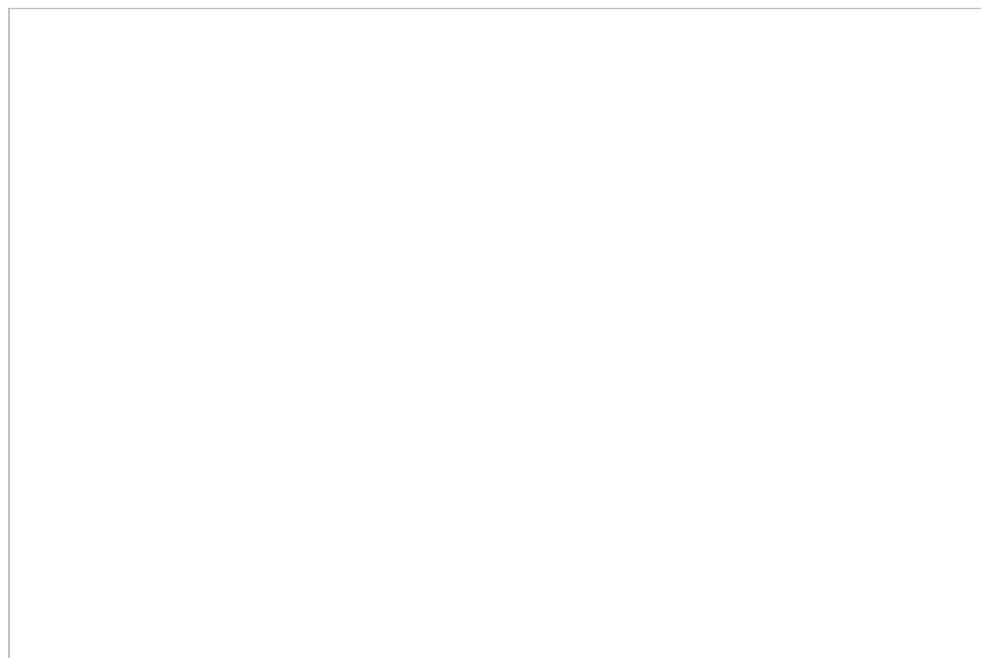
With the scrutiny, CRA ratings at banks such as Wells Fargo, Fifth Third Bancorp and Regions Bank slipped due in large part to settlements involving other laws. Some bankers said that was unfair, arguing the alleged conduct happened years ago and was fixed. And the ratings at Fifth Third and Regions have come back up more recently.

In October, Mr. Otting's predecessor Keith Noreika, a Trump administration appointee, changed its policies to make it much harder for banks to be downgraded for these reasons not directly tied to CRA lending. The downgrades "unnecessarily distract and divert the bank's resources from lending, investing, or serving the relevant communities and thereby frustrate the CRA's purposes," the new policy said.

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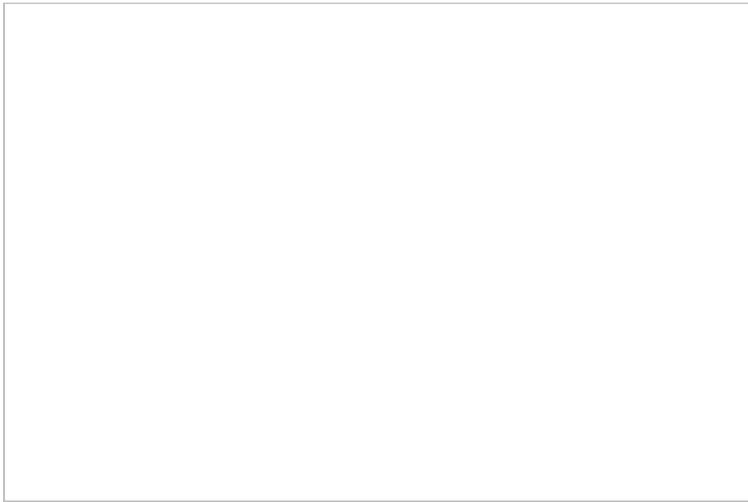
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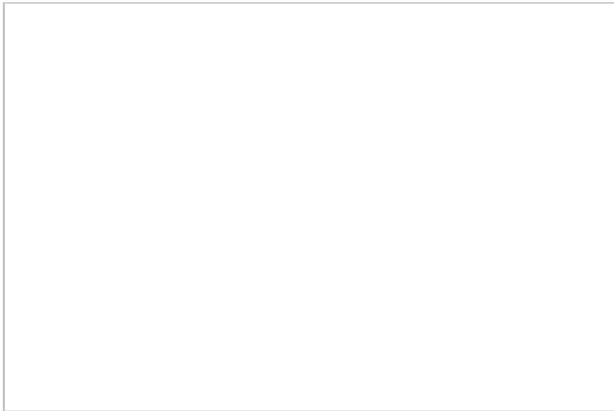
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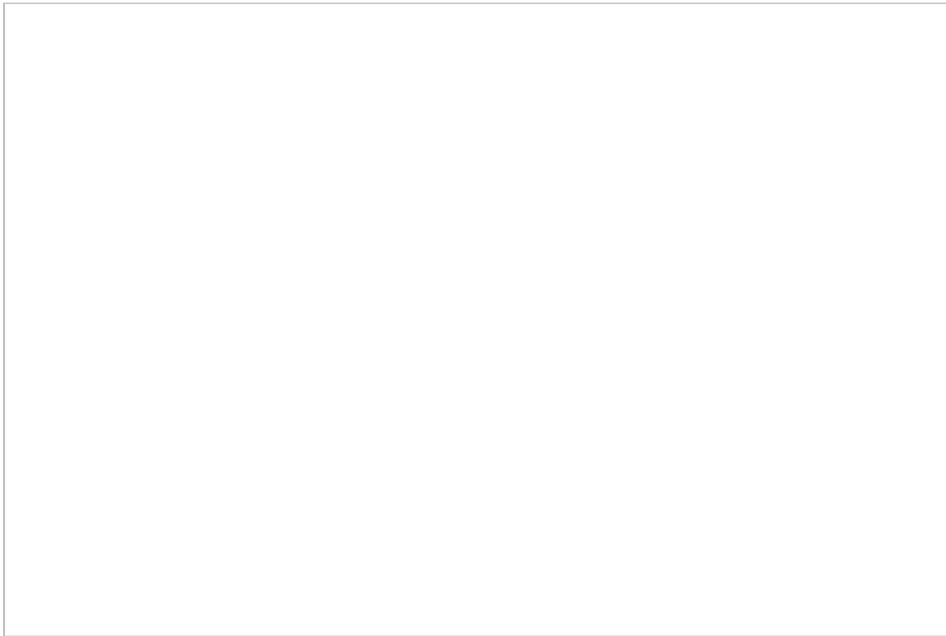
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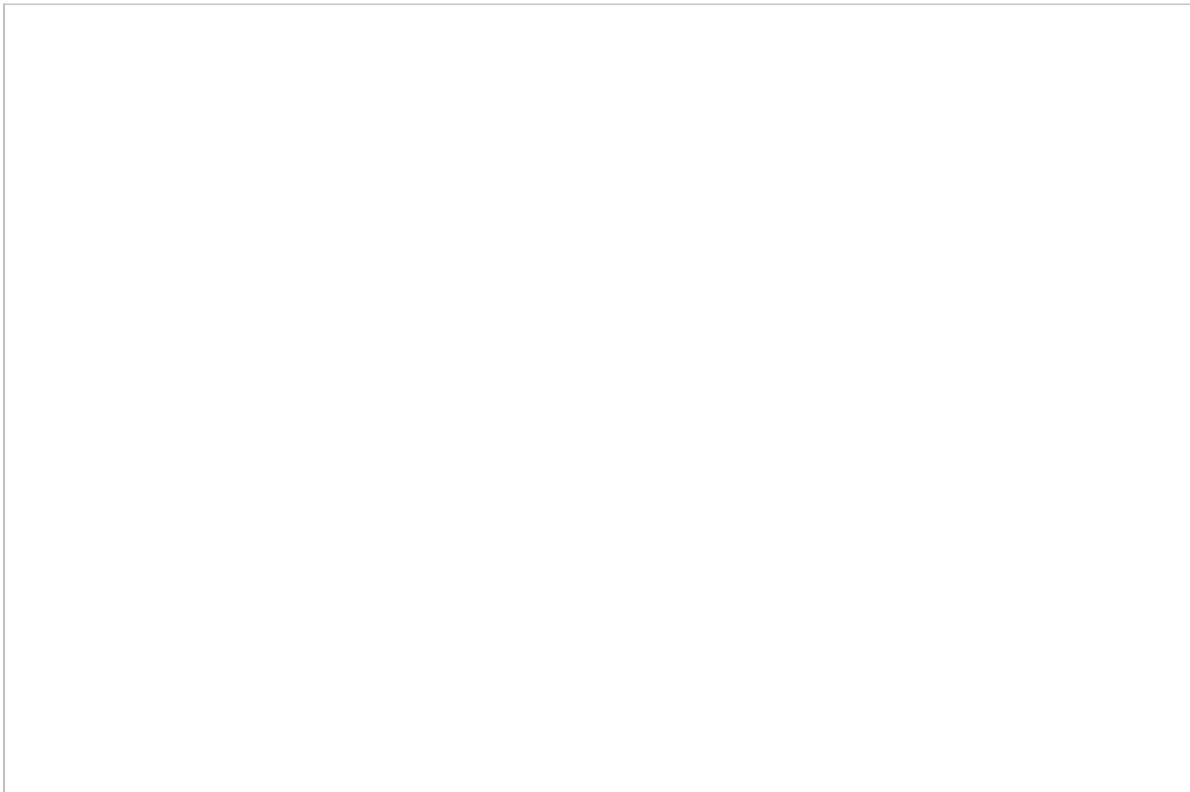
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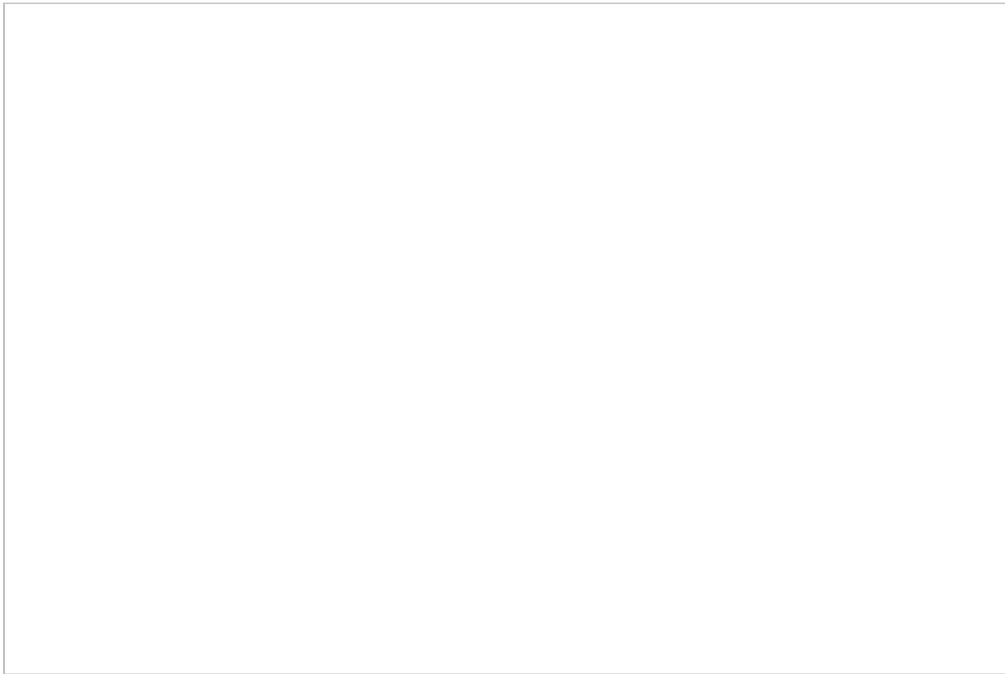
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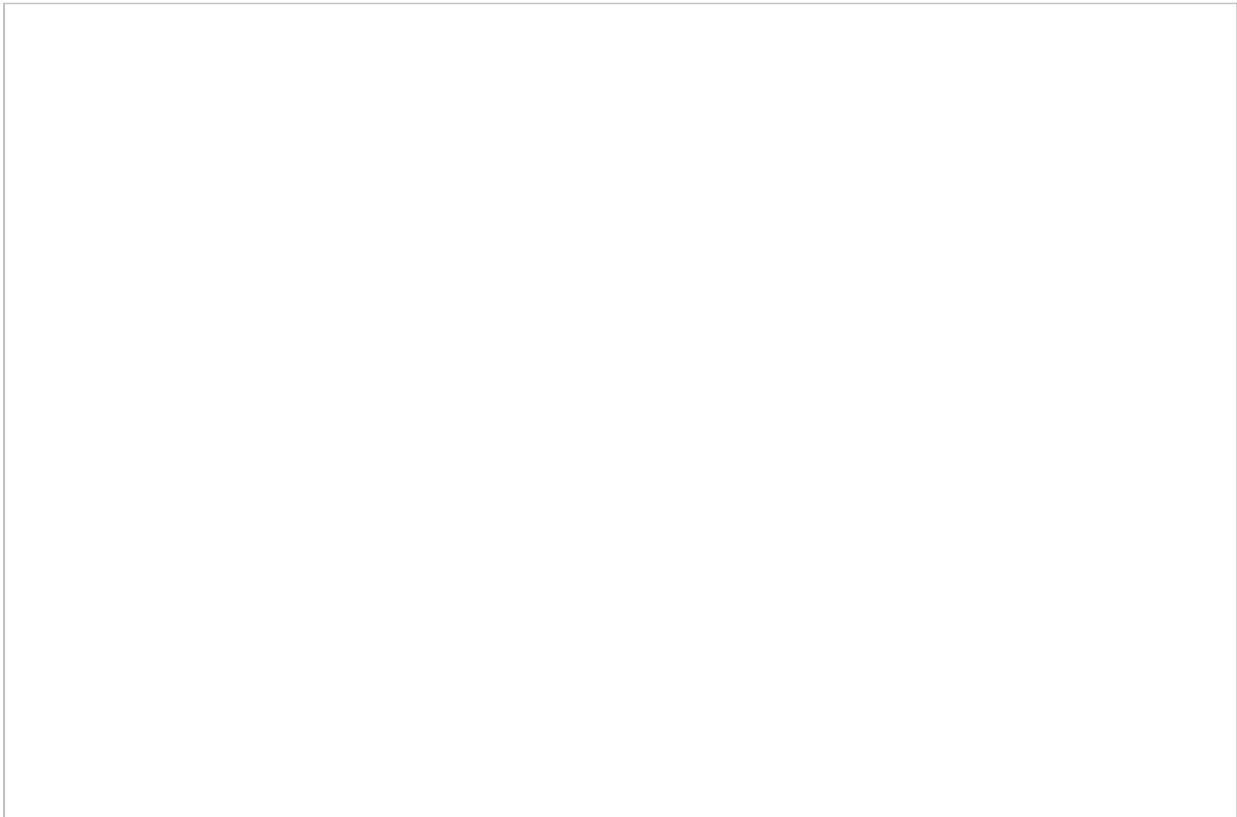
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