

Office of the Comptroller of the Currency
Supporting Statement
Community Reinvestment Act Regulation – 12 CFR 25 & 195
OMB Control No. 1557-0160

A. Justification

1. Circumstances that make the collection necessary:

The Community Reinvestment Act (CRA) requires the agencies to assess the record of banks and savings associations in helping to meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations; and to take this record into account in evaluating applications for mergers, branches, and certain other corporate activities.¹ Further, the CRA statute requires the agencies to issue regulations to carry out its purposes.²

The data collection requirements in the CRA regulations are necessary for the agencies to examine, assess, and assign a rating to an institution's CRA performance and to prepare the public section of the CRA performance evaluation.

The OCC is proposing to revise the OCC's regulation implementing the CRA based on the regulations adopted by the OCC, Federal Deposit Insurance Corporation (FDIC), and Board of Governors of the Federal Reserve System (Board) (the agencies) on May 4, 1995 (1995 rule)³ to replace the CRA rule adopted on June 5, 2020, (June 2020 rule)⁴ with a revised 12 CFR part 25 and a reinstated 12 CFR part 195. This proposal would rescind the June 2020 rule and would align the OCC's CRA regulations with those of the FDIC and Board. Aligning the agencies' CRA regulations would facilitate the interagency rulemaking process by setting a level playing field thereby enabling the agencies to work more effectively on modernizing the CRA.

Many aspects of the 1995 Rule remain in effect limiting the potential disruption associated with the proposed reversion to CRA regulations based on the 1995 Rule. Under the proposed rule, many of these banks would transition back to their prior bank type based on the proposed asset-size thresholds (*i.e.*, small banks would be banks with less than \$330 million in assets, Intermediate Small Banks (ISBs) would be banks with at least \$330 million but less than \$1.322 billion, and large banks would be banks with assets of \$1.322 billion or more, as adjusted). As a result, banks redesignated as large banks under the proposed rule would have reinstated data collection and reporting requirements.

2. Use of the information:

¹ 12 U.S.C. 2903.

² 12 U.S.C. 2905.

³ 60 FR 22156.

⁴ 85 FR 34734.

The agencies use the data collected under the CRA regulations to fulfill their statutory obligations, including the assessment of each institution's record of helping to meet the credit needs of local communities. The agencies use the data to support their conclusions regarding an institution's record of performance, in assigning a CRA rating, and in preparing the public evaluations that the statute requires. Additionally, judgments based on these data are used in evaluating an institution's applications for mergers, branches, and other corporate activities. The public uses this information to assess the institution's CRA performance and to participate meaningfully in the application process.

The CRA requires the agencies to assess the record of regulated financial institutions (institutions) in helping to meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations. The CRA further requires the agencies to take this record into account in evaluating applications for mergers, branches, and certain other corporate activities.⁵ The CRA statute requires the agencies to issue regulations to carry out its purposes.⁶

Under the proposed rule:

- 12 CFR 25.25(b) and 195.25(b) – Requests for designation as a wholesale or limited purpose bank or savings association would be made in writing with the OCC at least three months prior to the proposed effective date of the designation.
- 12 CFR 25.27 and 195.27 – Strategic plans would be submitted at least three months prior to proposed effective dates. Plans would include measurable goals and address all the performance categories. Plans would include a description of informal efforts to solicit public suggestions, any written public comments received, and if revised pursuant to public comment, a copy of the initial plan. Amendments may be submitted in the case of a change in material circumstances.
- 12 CFR 25.42(a) and 195.42(a) – Large banks and savings associations would collect and maintain certain small business/small farm loan data in a machine-readable form and report it annually pursuant to 12 CFR 25.42(b)(1) and 195.42(b)(1).
- 12 CFR 25.42(b)(2) and 195.42(b)(2) – Large banks and savings associations would report annually in machine readable form the aggregate number and aggregate amount of community development loans originated or purchased.
- 12 CFR 25.42(b)(3) and 195.42(b)(3) – Large banks and savings associations, if subject to reporting under 12 CFR 1003 (Home Mortgage Disclosure (Regulation C)), would report the location of each home mortgage loan application, origination, or purchase outside the metropolitan statistical area(s) in which the bank or savings association has a home/branch office.
- 12 CFR 25.42(c)(1) and 195.42(c)(1) – All banks and savings associations may collect and maintain in machine readable form certain data for consumer loans originated or purchased by a bank or savings association for consideration under the lending test. Under 12 CFR 25.42(c)(2)-(4) and 195.42(c)(2)-(4), other information may be included concerning their lending performance, including additional loan distribution data.

⁵ 12 U.S.C. 2903.

⁶ 12 U.S.C. 2905.

- 12 CFR 25.42(d) and 195.42(d) – Banks and savings associations that elect to have the OCC consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, would collect, maintain, and report the data that the bank or savings association would have collected, maintained, and reported pursuant to 12 CFR 25.42(a)-(c) or 195.42(a)-(c), respectively, had the loans been originated or purchased by the bank or savings association. For home mortgage loans, the bank or savings association would also be prepared to identify the home mortgage loans reported under HMDA by the affiliate.
- 12 CFR 25.42(e) and 195.42(e) – Banks and savings associations that elect to have the OCC consider community development loans by a consortium or a third party, for purposes of the lending or community development tests or an approved strategic plan, would report for those loans the data that the bank or savings association would have reported under 12 CFR 25.42(b)(2) or 195.42(b)(2), respectively, had the loans been originated or purchased by the bank or savings association.
- 12 CFR 25.42(f) and 195.42(f) – Small banks that qualify for evaluation under the small bank performance standards but elect evaluation under the lending, investment, and service tests would collect, maintain, and report the data required for other banks or savings associations under 12 CFR 25.42(a), 25.42(b), 195.42(a), and 195.42(b).
- 12 CFR 25.42(g) and 195.42(g) – Banks and savings associations, except those that were a small bank or small savings association during the prior calendar year, would collect and report to the OCC by March 1 each year a list for each assessment area showing the geographies within the area.
- 12 CFR 25.43(a) and 195.43(a) – All banks and savings associations would maintain a public file that contains with certain specified details: all written comments and responses; a copy of the public section of the bank’s or savings association’s most recent CRA performance evaluation; a list of the bank’s or savings association’s branches; a list of the branches opened or closed; a list of services offered; and a map of each assessment area delineated by the bank or savings association.
- 12 CFR 25.43(b) and 195.43(b) – Large banks and savings associations would include in their public files certain information pertaining to the institution and its affiliates, if applicable, for each of the prior two calendar years. If the bank or savings association has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, they would include the number and amount of loans: to low-, moderate-, middle-, and upper-income individuals; located in low-, moderate-, middle-, and upper-income census tracts; and located inside the bank's assessment area(s) and outside the bank's or savings association's assessment area(s); and their CRA Disclosure Statement. A bank or savings association required to report home mortgage loan data pursuant to 12 CFR part 1003 would include a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) Web site. A bank or savings association that elected to have the OCC consider the mortgage lending of an affiliate would include the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's Web site. A small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year would include: its loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and the information required

for other banks or savings associations by 12 CFR 24.43(b)(1) or 195.43(b)(1), if it has elected to be evaluated under the lending, investment, and service tests. A bank or savings association that has been approved to be assessed under a strategic plan would include in its public file a copy of that plan. A bank or savings association that received a less than satisfactory rating during its most recent examination would include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The bank would update the description quarterly.

- 12 CFR 25.43(c)-(e) and 12 CFR 195.43(c)-(e) – A bank or savings association would make available to the public for inspection upon request and at no cost the information required in this section at the main office or branch as specified. Upon request, a bank or savings association would provide copies, either on paper or in another form acceptable to the person making the request, of the information in its public file. A bank or savings association would ensure that this information is current as of April 1 of each year.

3. Consideration of the use of improved information technology:

The OCC uses information technology to reduce compliance burden on banks and decrease costs to both the banks and the OCC.

To help alleviate the burden and expense of geocoding loans (the linking of geographic information and loan data), the Federal Financial Institutions Examination Council (FFIEC) provides a geocoding utility free-of-charge on its Web site (<http://www.ffiec.gov>). This program enables a bank to enter the address of a given property and obtain quickly the information needed to geocode the property. This Web site also provides demographic data about each property and has been used extensively by banks, savings associations, and the public.

4. Efforts to identify duplication:

The information collected under the OCC's CRA regulation pertains to bank- and savings association-specific activities and lines of business in particular geographic areas. The information supports performance evaluations and bank- and savings association-specific requests for approval of strategic plans and certain applications. For these reasons, almost all of the information collected pursuant to the CRA regulation is not otherwise available. Where the OCC already collects information useful for CRA purposes, it has relied on the existing collection, rather than requiring banks and savings associations to provide the information in a different format.

5. Methods used to minimize burden if the collection has an impact on small entities:

Small institutions are subject to modest burden under the CRA regulations

6. Consequences to the Federal program if the collection was conducted less frequently:

The regulations require an annual report of the prior calendar year's data from large institutions by March 1st. Reporting less frequently would decrease the utility of the data for both the public and the agencies. The agencies believe that a comparison, at least annually, of an

institution’s performance with that of their peer institutions is a critical component in the CRA evaluation process. The agencies expect, however, that institutions will add data to their in-house files at regular intervals throughout the year making entries as usual and customary.

7. Special circumstances necessitating the collection to be conducted in a manner inconsistent with 5 CFR part 1320:

The information collection requirements in the agencies’ CRA regulations are consistent with 5 CFR part 1320.

8. Efforts to consult with persons outside the agency:

The OCC issued the collection of information for 60 days of comment as part of the proposed rule.

9. Payment to respondents:

Not applicable. There is no payment to respondents.

10. Assurance of confidentiality:

A primary purpose for collection of CRA data is disclosure to the public. Therefore, no assurance of confidentiality is made.

11. Justification for questions of a sensitive nature:

Not applicable. No personally identifiable information is collected.

12. Burden estimate:

Cite and Burden Type	Requirements in 12 CFR 25	No. of Respondents	Avg. hours per Response	Estimated Burden Hours
12 CFR 25.25(b) 12 CFR 195.25(b) Reporting	<u>Request for designation as a wholesale or limited purpose bank or savings association</u>	12	4	48
12 CFR 25.27 12 CFR 195.27 Reporting	<u>Strategic plan</u>	5	275	1,375
12 CFR 25.42(a) 12 CFR 195.42(a) Recordkeeping	<u>Small business/small farm loan data</u>	142	219	31,098
12 CFR 25.42(b)(1) 12 CFR 195.42(b)(1) Reporting	<u>Small business/small farm loan data</u>	142	8	1,136
12 CFR 25.42(b)(2) 12 CFR 195.42(b)(2)	<u>Community development loan data</u>	142	13	1,846

Cite and Burden Type	Requirements in 12 CFR 25	No. of Respondents	Avg. hours per Response	Estimated Burden Hours
Reporting				
12 CFR 25.42(b)(3) 12 CFR 195.42(b)(3) Reporting	<u>Home mortgage loans</u>	142	253	35,926
12 CFR 25.42(c)(1) 12 CFR 195.42(c)(1) Recordkeeping	<u>Consumer loan data</u>	85	326	27,710
12 CFR 25.42(c)(2)-(4) 12 CFR 195.42(c)(2)-(4) Recordkeeping	<u>Other loan data</u>	25	25	625
12 CFR 25.42(d) 12 CFR 195.42(d) Reporting	<u>Data on affiliate lending</u>	9	38	342
12.CFR 25.42(e) 12.CFR 195.42(e) Reporting	<u>Data on lending by a consortium or a third party</u>	31	17	527
12 CFR 25.42(f) 12 CFR 195.42(f) Reporting	<u>Small banks electing evaluation under the lending, investment, and service tests</u>	Covered by	Burden in	§§ 25.42(a) & (b), 195.42(a) & (b)
12 CFR 25.42(g) 12 CFR 195.42(g) Reporting	<u>Assessment area data</u>	189	2	378
12 CFR 25.43 12 CFR 195.43 Disclosure	<u>Content and availability of public file</u>	1,092 small 142 large	10	10,920 1,420
Total Parts 25 and 195				Total Burden: 113,351

Cost of Hour Burden:

113,351 x \$ 114.17 = \$ 12,941,283.67

To estimate wages, the OCC reviewed May 2020 data for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for credit intermediation and related activities (NAICS 5220A1). To estimate compensation costs associated with the rule, the OCC uses \$114.17 per hour, which is based on the average of the 90th percentile for six occupations adjusted for inflation (2 percent as of Q1 2021), plus an additional 33.4 percent for benefits (based on the percent of total compensation allocated to benefits as of Q4 2020 for NAICS 522: credit intermediation and related activities).

13. Estimate of the total annualized cost to respondents:

N/A.

14. Estimate of annualized cost to the federal government:

N/A.

15. Changes in burden:

Prior Burden: 603,260 hours

Current Burden: 113,351

Difference: - 488,909

16. Information regarding collections whose results are planned to be published for statistical purposes:

Not applicable.

17. Display of expiration date:

Not applicable. The information collections are contained in regulations.

18. Exceptions to certification statement:

Not applicable.

B. Collections of information employing statistical methods

Not applicable.