

441 G St. N.W.
Washington, DC 20548

B-333856

December 22, 2021

The Honorable Sherrod Brown
Chairman
The Honorable Patrick J. Toomey
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Maxine Waters
Chairwoman
The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Department of the Treasury, Office of the Comptroller of the Currency: Community Reinvestment Act Regulations*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Treasury, Office of the Comptroller of the Currency (OCC) entitled “Community Reinvestment Act Regulations” (RIN: 1557-AF12). We received the rule on December 15, 2021. It was published in the *Federal Register* as a final rule on December 15, 2021. 86 Fed. Reg. 71328. The effective date is January 1, 2022.

According to OCC, the final rule adopts a final Community Reinvestment Act rule that is based largely on the 1995 Community Reinvestment Act rules, as revised, that were issued by OCC, Board of Governors of the Federal Reserve System (Board), and Federal Deposit Insurance Corporation (FDIC). OCC stated the final rule applies to national banks and savings associations. OCC further stated the final rule rescinds a prior rule published by OCC on June 5, 2020, and facilitates the OCC’s planned future issuance of updated interagency rules with the Board and FDIC.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The 60-day delay in effective date can be waived, however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. §§ 553(d)(3), 808(2). Here, although OCC did not specifically mention the CRA’s 60-day delay in effective date requirement, the agency found good cause to waive the Administrative Procedure Act’s 30-day delay and incorporated a brief statement of reasons. Specifically, OCC stated a delay would cause a bank to be subject to two different regulatory regimes during any three-year examination period that includes 2022; data collected on a calendar-year basis is more useful to stakeholders than data collected for a

partial year; and banks currently are required to comply with many of the provisions in the 1995 rules, which this final rule reinstates. OCC also waived notice and comment procedures for some of the provisions for good cause because it said these amendments are not substantive and merely correct cross-references and a reference to the OCC.

Enclosed is our assessment of OCC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Shaquita Merritt
Program Specialist, Chief Counsel's Office

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMPTROLLER OF THE CURRENCY
ENTITLED
“COMMUNITY REINVESTMENT ACT REGULATIONS”
(RIN: 1557-AF12)

(i) Cost-benefit analysis

The Department of the Treasury, Office of the Comptroller of the Currency (OCC) did not discuss the costs and benefits of the final rule. In its submission to us, OCC indicated that it did not prepare an analysis of the costs and benefits of this final rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603–605, 607, and 609

OCC certified the final rule would not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202–205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532–1535

OCC concluded the final rule will not result in an expenditure of \$100 million or more annually (adjusted for inflation) by state, local, and tribal governments, or by the private sector.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On September 8, 2021, OCC issued a proposed rule, which was published on September 17, 2021. 86 Fed. Reg. 52026. OCC received 62 comments on the proposed rule from the banking industry, community and other advocacy groups, state and local governments, and the general public. OCC responded to the comments in the final rule. OCC waived the Act’s delay in effective date requirement for good cause. It determined it had good cause because a delay would cause a bank to be subject to two different regulatory regimes during any three-year examination period that includes 2022; data collected on a calendar-year basis is more useful to stakeholders than data collected for a partial year; and banks currently are required to comply with many of the provisions in the 1995 rules, which this final rule reinstates. OCC also waived notice and comment procedures for some of the provisions for good cause because these amendments are not substantive and merely correct cross-references and a reference to the OCC.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

OCC determined the final rule contained information collection requirements (ICRs) subject to the Act. The ICR is entitled “Community Reinvestment Act” and is associated with Office of

Management and Budget Control Number 1557-0160. OCC estimated the annual burden of the ICR to be 113,351 hours.

Statutory authorization for the rule

OCC promulgated the final rule pursuant to sections 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1462a, 1463, 1464, 1814, 1816, 1828(c), 1835a, 2901 through 2908, 3101 through 3111, and 5412 of title 12, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

As an independent regulatory agency, OCC is not subject to the requirements of the Order.

Executive Order No. 13132 (Federalism)

As an independent regulatory agency, OCC is not subject to the requirements of the Order.