

GAO Highlights

Highlights of [GAO-18-404T](#), a report to Committee on Small Business, House of Representatives

Why GAO Did This Study

Federal financial regulators must comply with various rulemaking and review requirements, including those in RFA and EGRPRA. These statutes require analyses relating to regulatory burden, small entities, or both. RFA requires analyses of a rule's impact on small entities and alternatives that may minimize any significant economic impact. It also requires agencies to review rules (within 10 years) to determine if the rules should be amended or rescinded. EGRPRA directs specified regulators to review regulations at least every 10 years and identify areas that are outdated, unnecessary, or unduly burdensome on insured depository institutions.

This statement is based on findings from GAO's January 2018 report on RFA implementation ([GAO-18-256](#)) and February 2018 report on regulatory burden on community banks and credit unions ([GAO-18-213](#)). GAO discusses regulatory burdens and how financial regulators address regulatory burdens through the rulemaking process and retrospective reviews. For those reports, GAO's work included reviewing *Federal Register* notices; regulators' workpapers, policies and procedures; and reports to Congress on EGRPRA reviews. GAO also interviewed more than 60 community banks and credit unions.

What GAO Recommends

GAO made a total of 20 recommendations to the financial regulators in the two reports to improve their policies and procedures and analysis under RFA and in retrospective reviews. The regulators generally agreed with the recommendations.

View [GAO-18-404T](#). For more information, contact Michael E. Clements at (202) 512-8678 or clementsm@gao.gov.

February 2018

ANALYZING REGULATORY BURDEN

Policies and Analyses under the Regulatory Flexibility Act and Retrospective Reviews Could Be Improved

What GAO Found

More than 60 smaller depository institutions told GAO that regulations for reporting mortgage characteristics; reviewing transactions for potentially illicit activity; and disclosing fees, conditions, and mortgage terms to consumers were the most burdensome. Institution representatives said these regulations were time-consuming and costly because the requirements were complex and required reporting that had to be reviewed for accuracy. Financial regulators and others noted these regulations provide various benefits as well, such as preventing lending discrimination or use of the banking system for illicit activity.

The Regulatory Flexibility Act (RFA) requires federal agencies to analyze the impact of their regulations on small entities. GAO found several weaknesses with the analyses of six financial regulators—Board of Governors of the Federal Reserve System (Federal Reserve), Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), Securities and Exchange Commission, Commodity Futures Trading Commission, and Consumer Financial Protection Bureau (CFPB)—that could undermine the goal of RFA and limit transparency and public accountability. For example, some analyses lacked important information, such as data sources, methodologies, and consideration of broad economic impacts. Evaluations of potential economic effects and alternative regulatory approaches also were limited. Finally, regulators generally lacked comprehensive policies and procedures for RFA implementation. By not developing such policies and procedures, regulators' ability to consistently and effectively meet RFA objectives may be limited.

The Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) and RFA require regulators to conduct retrospective reviews, and GAO found weaknesses.

- **EGRPRA.** GAO found limitations in activities regulators undertook for retrospective reviews under EGRPRA. CFPB, which has regulatory authority for a number of consumer financial laws, was not included in the most recent review process. Moreover, as part of their EGRPRA reviews, the Federal Reserve, OCC, FDIC, and the National Credit Union Administration had not conducted and reported analyses of quantitative data nor had these regulators assessed the cumulative effect of regulations. Addressing these limitations in the EGRPRA processes likely would make the analyses they perform more transparent, and potentially result in additional burden reduction.
- **RFA.** The issues GAO identified with RFA retrospective reviews (section 610 reviews) included some regulators using the EGRPRA process to fulfill RFA requirements and gaps or weaknesses in analysis and documentation. But EGRPRA requirements do not fully align with RFA's, and it is not clear if the EGRPRA process satisfies the requirements of section 610. Also, regulators generally have not developed policies and procedures for section 610 reviews. By meeting section 610 review requirements, regulators will be in a better position to minimize any significant economic impact of a rule on a substantial number of small entities, as the statute seeks to ensure.