



July 21, 2021

## MEMORANDUM

TO: SBIA Membership  
RE: Federal Regulators Announce Joint Intent to Revise CRA Regulations

### Key Takeaways

- There is no official timeline for this new joint rulemaking process and current interagency regulations remain in force, including the treatment of bank investments in SBICs and RBICs as “qualifying activities” for CRA credit purposes.
- The U.S. Office of the Comptroller of the Currency (OCC) also announced its intent to rescind its final rulemaking on CRA, which was adopted independently in 2020.

### Summary of Developments

On July 20, the three federal banking regulators that govern the Community Reinvestment Act (CRA) announced their commitment to a joint revision of federal rules governing the CRA. Federal regulators currently consider bank investments in SBICs and RBICs a “qualifying activity” for CRA credit.<sup>[2]</sup>

The Federal Reserve (Board), Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) each regulate financial institutions under the CRA, a 1977 law that encourages federally-regulated banks and depository institutions to make loans and invest in the communities they serve including low and moderate-income neighborhoods.<sup>[1]</sup> SBIA filed formal comments earlier this year in response to a request for stakeholder input on CRA.

Additionally, the acting Comptroller of the Currency said on July 20 that the OCC, which oversees national banks and the bulk of the activity under the low-income lending rules, will rescind its CRA rulemaking adopted unilaterally last year. While federal agencies typically must complete a lengthy public “notice-and-comment” period before enacting or rescinding a regulation, agencies may rescind a rule without prior notice and public comment if the agency has *good cause* that this due process is unnecessary.<sup>1</sup>

While the OCC has not yet officially rescinded the 2020 rule, SBIA anticipates that the OCC will argue it has good cause to take immediate action because its rule was enacted unilaterally, making the OCC’s 2020 rule unnecessary.

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<sup>[2]</sup> Interagency Questions & Answers Regarding Community Reinvestment (“CRA Interagency Q&A”) at Sec. \_\_.12(g)(3)–1.

<sup>[1]</sup> 12 U.S.C. 2901 *et seq.*

<sup>1</sup> 5 U.S.C. 553 (b)(B).