



Financial inclusion is no longer optional

**Regulatory changes are rewriting the rules
for responsible banking**

The case for financial inclusion

Across the industry, there are several key drivers that are rewriting the rules as they relate to financial inclusion, and for most financial institutions, the traditional approach for fair and responsible banking will no longer be sufficient. In the past few years, the global pandemic, looming economic challenges, a rapidly changing and competitive labor market, and calls for racial and social equality have brought the need for financial inclusion to the forefront of public consciousness. While fair lending has long been something that financial institutions have kept top of mind, the concept is quickly becoming table stakes for the industry, and financial inclusion is where organizations need to begin to focus and innovate quickly to keep up.

Financial inclusion is the ability for individuals and businesses to have access to both useful and affordable financial products and services that meet their needs and have those products delivered in a responsible and sustainable way.¹ One of the most significant key drivers for financial inclusion is recently proposed consumer protection regulatory changes. Several regulators—including the Consumer Financial Protection Bureau (CFPB), the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC)—are continuing to push forward an approach that embraces the spirit of regulatory requirements versus only the letter of the law. Regulators have made or proposed changes to Unfair, Deceptive, or Abusive Acts or Practices (UDAAP), the Community Reinvestment Act (CRA), and small business data reporting expectations in an effort to ensure that products are useful, affordable, and delivered responsibly. This shift in approach has put the enhancement of financial inclusion practices in banking at the forefront of regulatory changes that financial institutions should begin to prepare for.

According to the 2021 FDIC National Survey of Unbanked and Underbanked Households, approximately 6 million households in the United States are underbanked (i.e., no one in the household has a checking or savings account).² Of the underbanked population, almost 30% cited either not having sufficient funds to meet minimum balance requirements or account fees being too high or unpredictable as the main reason for not having a bank account.³ Although the unbanked population continues to shrink, those with access to banking products and services are not always receiving useful or affordable options, and industry leaders must understand how to continue evaluating their financial inclusion strategies accordingly.

In the inaugural report to assess and address the financial inclusion market landscape, Deloitte developed a [financial inclusion framework](#) to assist leaders to assess and address their financial inclusion strategy across four dimensions: **(1)** organization, including workforce and sales strategies; **(2)** offerings, including products and services; **(3)** community, including local footprint; and **(4)** the broader ecosystem, including vendors, partners, and public platforms.⁴

While the majority of financial institutions have embarked on their financial inclusion journey, what was previously a broader organizational strategy for consideration is quickly becoming an industry expectation. This article will focus on how the increasing regulatory focus on financial inclusion is demanding financial institutions to begin mobilizing fair and responsible banking programs to evaluate and implement significant changes related to the products and services offered to meet these growing industry and regulatory expectations.

Financial inclusion at the forefront of regulatory changes

Recent regulatory changes have demonstrated the broader industry movement of not only strengthening the enforcement of fair and responsible banking issues, but also enhancing financial inclusion practices. Even though many may not think about financial inclusion and consumer protection through the same lens, both concepts are closely connected. When thinking about consumer protection, the first thought is often the CFPB and Fair and Responsible Banking. The CFPB was created following the financial crisis to protect consumers from unfair, deceptive, or abusive practices as well as to ensure that financial markets are fair, transparent, and competitive.⁵ As part of his remarks at Money 20/20, CFPB Director Rohit Chopra notes the CFPB's new approach to regulation, including features to enable a more open and competitive market where consumers will have not only more leverage but also more opportunities.⁶

This revised approach to both supervisory expectations and regulatory requirements as well as embracement of spirit of regulatory requirements versus only the letter of the law is evident in recent proposed changes to foundational regulations including UDAAP, CRA, and Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

- **CFPB broadens UDAAP focus to include anti-discrimination**

In March 2022, the CFPB announced enhancements to its supervisory approach to expand discrimination prevention measures by using the unfairness standard under the UDAAP statute. As part of this update, the CFPB updated its examination manual to detail that discrimination, regardless of intent, may meet the criteria for “unfairness” if it allows for substantial harm to consumers in scenarios where a consumer cannot reasonably avoid the discrimination.⁷ This change reflects a more holistic viewpoint on fair lending and anti-discrimination across financial operations and consumer finance markets including deposit products and situations where fair lending laws may not apply.⁸ If consumers are being unfairly discriminated against and therefore cannot obtain financial services, then financial inclusion is being undermined by these barriers to entry.

- **Banking regulators announce proposed updates to the CRA**

In May 2022, the OCC, Board of Governors of the Federal Reserve System (FRB), and the FDIC (collectively, the agencies) announced proposed rulemaking to modernizing the CRA framework. The CRA was originally enacted to encourage financial institutions to meet the needs of borrowers in all segments of their communities, including low- and moderate-income (LMI) communities. With the last substantive update to the CRA being in 2005, the agencies

recognized the significant changes of the financial services industry as well as the need to evolve the CRA regulations accordingly. A core component of this proposed rule includes a Retail Services and Products Test to adapt to the rise of mobile and online banking.⁹ Specifically, the proposed modernization of the CRA demonstrates the agencies effort to promote greater financial equality for LMI communities in alignment with increased demand for digital banking to ensure the products and services offered are meeting the needs of customers in the digital era.¹⁰

- **CFPB proposes small business lending data collection implementation**

In September 2021, the CFPB issued a proposed rule to amend Regulation B to implement changes to the Equal Credit Opportunity Act (ECOA) made by Section 1071 of the Dodd-Frank Act to include the collection and reporting of small business lending data.¹¹ The Dodd-Frank Act, which was implemented after the financial crisis was designed to implement greater “common-sense protections” for US consumers, including programs related to the home buying process, rules related to unnecessarily charged fees, and the implementation of the Credit CARD Act to enable greater fairness and transparency for credit card consumers.¹² The current Section 1071 proposal, which can be seen as the Home Mortgage Disclosure Act (HMDA) requirements for small businesses, would enable the opportunity to create the first comprehensive database of small business credit applications in the United States. This would allow for regulators to not only better identify and address fair lending concerns related to small businesses, but also provide greater insights related to business and community development needs and opportunities.¹³

These regulatory announcements are just a sample of steps that regulators across the financial services industry are taking to rewrite the expectations for financial inclusion while continuing to advance the key elements of regulations originally implemented to protect consumers and allow for equitable access to financial products and services. As part of preparing to adhere to these regulatory expectations, financial institutions should begin to evaluate their products and services through the perspective of advancing financial inclusion.

Four key considerations for financial institutions

When financial institutions consider the statistics of financial well-being across the United States and the opportunity to meet the needs of the underserved markets as well as the impending regulatory requirements to enhance fair and responsible banking practices, the opportunity for implementing change is palpable. Given the recent regulatory priorities, the fair and responsible banking programs of financial institutions are uniquely positioned to focus on the offerings dimension of the financial inclusion framework and begin to consider how to develop and deploy, or adjust existing, products and services to better reach and support the underserved communities. A few key areas of focus for financial institutions to consider include:

1. Strategic marketing and advertising approaches

The evaluation of marketing and outreach to LMI communities is also a core component of the proposed CRA modernization. Financial institutions should begin to assess and innovate the marketing and advertising to consider how products and services are being marketed to different customer bases. Financial institutions should review existing processes related to advertising and promotional materials, including conducting testing of any products targeted to a particular population and evaluating any technology-driven marketing programs and related algorithms to identify potential unintended consequences or disparate treatment. For example, upon a deeper assessment, financial institutions may identify that a certain product is only being marketed in a specific demographic, or that marketing materials clearly do not communicate the potential costs associated with a product or service, creating potentially limiting consumer access to the product or service. Additionally, financial institutions may consider a strategic partnership with community-based organizations within LMI communities as part of marketing not only awareness but also accessibility of products or services.

2. Innovation of digital consumer engagement

The use of mobile banking has continued to increase and according to the Global Findex 2021 database, more than 40% of adults who made merchant in-store or online payments using a card, phone, or the internet, or paid a utility bill directly from a formal account, did so for the first time since the start of the pandemic.¹⁴

Financial institutions should begin to take steps to identify and implement more innovative opportunities to engage with consumers. The tremendous growth of digital banking is an opportunity for financial institutions to consider the interaction of their digital banking offerings through the needs of LMI communities. For example, financial institutions should work to ensure that online and mobile banking services can be accessed on different device types and in more rural areas. Further, financial institutions can identify opportunities to better promote financial inclusion through the advancement of digital banking to expand access to those who may have been previously unable; for example, adopting remote deposit capture and e-signature for customers who may not have utilized the service due to branch location availability.

3. New product or service evaluation process

As part of the CFPB taking a more holistic view of fair lending and anti-discrimination, organizations should be prepared for products and services—including special-purpose programs—to be in scope for upcoming examinations. As financial institutions begin to develop or enhance existing processes related to deploying new products or services to include a financial inclusion component of the assessment, it will also be crucial to ensure there is a consistent standard of protected classes across all financial products, in alignment with the CFPB's evolving definition of discrimination under the ECOA. Financial institutions should consider potential barriers to access related to the product or services as well as reasons for why households are unbanked, including underwriting practice, fee structures, balance thresholds, and credit history evaluations that could act as systemic obstacles to some customers. By integrating this step into the product or services evaluation process prior to going to market, financial institutions can make applicable adjustments to the product or service to better dismantle potential barriers to access. For example, several financial institutions have begun to implement low-cost features such as no overdraft or insufficient fund fees, ability to open accounts with no or low monthly maintenance fees, etc. to increase accessibility to the products or services for different communities.

4. Alternative credit data options

While financial intuitions are navigating the ability to evaluate and determine options to integrate the consideration of alternative credit data to expand access for more customers to products and services, regulators are also continuing to prepare for the user of alternative data in credit underwriting. As part of an interagency statement of the use of alternative data in credit underwriting, the agencies recognize the growing use of alternative data by both banks and nonbanks and encourage responsible use of such data.¹⁵ Underwriting determinations are highly dependent on available credit history, but not all consumers have credit history, with one in 10 adults in the United States being “credit invisible” (i.e., having no credit history).¹⁶ Based on industry research, those with little to no credit often tend to be of lower-income and/or ethnic minorities, continuing to contribute to the gap in financial well-being. Financial institutions should consider exploring alternative credit data options to inform lending decisions, such as financial transaction data within bank accounts; payment history from recurring bills (e.g., rent, cell phones, utilities); and even other information such as education and occupation details to develop a more comprehensive understanding of a borrower’s credit profile and consequently facilitate credit decisioning for “credit invisible” borrowers. By considering alternative credit data options, many financial institutions are utilizing more innovative techniques—such as machine learning and artificial intelligence—to evaluate customer applications and elevate financial access for those who many have been denied the opportunity in the previous credit history-dependent approach.

Financial institutions should begin to mobilize and challenge their fair and responsible banking programs to take steps to evaluate existing barriers to access and how to be more innovative with products and services from inception, deployment, and ongoing offering. In making these changes to advance financial inclusion, financial institutions will also need to enhance existing controls and processes to identify and continuously monitor potential exclusionary behavior as well as

establish key performance indicators (KPIs) to measure the success of new and existing programs in addressing financial inequities. To implement significant changes, coordination will be required across all three lines along with a shift in perspective from why this cannot work to how organizations can make this work because it is becoming a regulatory expectation. The establishment of a strong engagement model, especially between the front-line business and second-line compliance stakeholders, will be critical to successfully innovating products and services while ensuring there are proper controls in place to meet regulatory requirements.

While organizations have made strides to advance financial inclusion and embrace meaningful and sustainable changes, the continued increase in social, economic, and political drivers—notably the proposed regulatory changes—has made financial inclusion a business imperative. To truly embrace and implement the required changes, both financial institutions and regulators should work together to develop an understanding and alignment of financial inclusion priorities and how to implement the recent enhanced regulatory changes through an established financial inclusion framework. This may include pursuing creative options such as regulatory sandboxes to test new products and services. The recent regulatory developments and growing industry demand for more accessible financial products and services will continue to drive fair and responsible banking programs to evaluate and innovate to meet the expectations and objectives of a more inclusive financial services industry.

For additional insight, please see our ongoing series on financial inclusion and the impact it has on financial services industries and the broader economy: [Deloitte Financial Services industry Financial Inclusion campaign](#).

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