Community Reinvestment Act

Community Bankers for Compliance School

LENDING

2016

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Section 1: Overview and History of the Regulation

Background

In 1977, the United States Congress enacted the Community Reinvestment Act (CRA) to encourage banks and thrifts to help meet the credit needs of their entire communities, including low- and moderate-income (LMI) neighborhoods, consistent with safe and sound lending practices. In the CRA, Congress stated that:

1. Regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business;
2. The convenience and needs of communities include the need for credit as well as deposit services; and
3. Regulated financial institutions have continuing and affirmative obligations to help meet the credit needs of the local communities in which they are chartered.[1]

The CRA has come to play an increasingly important role in improving access to credit in communities – both rural and urban – across the country. Under the impetus of the CRA, many banks and thrifts opened new branches, provided expanded services, and made substantial commitments to increase lending to all segments of society.

Purposes[2]

In enacting the CRA, the Congress required the Federal financial supervisory Agencies to assess an institution's record of helping to meet the credit needs of the local communities in which the institution is chartered, consistent with the safe and sound operation of the institution, and to take this record into account in the agency's evaluation of an application for a deposit facility by the institution. The final rule is intended to carry out the purposes of the CRA by:

1. Establishing the framework and criteria by which the regulatory Agencies assess a bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank; and
2. Providing that the regulatory Agencies take that record into account in considering certain applications.

Scope

CRA applies to all banks except certain special-purpose banks. CRA does not apply to special-purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations.

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1 12 U.S.C. § 2901(a).

2 12 C.F.R. § 25.11, 228.11, 345.11.

These banks include banker's banks, as defined in 12 U.S.C. § 24 (Seventh), and banks that engage only in one or more of the following activities:

1. Providing cash, management-controlled disbursement services or serving as correspondent banks,
2. Trust companies, or
3. Clearing agents.

Key Components of the 1995 Final Rule

On May 4, 1995, a modified CRA regulation was published in the *Federal Register*. This version of the regulation:

- Provided clearer and more objective evaluation standards, eliminated unnecessary documentation requirements, and improved the consistency of CRA examinations and performance evaluations.
- Emphasized performance over process and documentation.
- Provided for a lending test, a service test, and an investment test.

Evaluation Based on Actual Performance

Under the revised CRA regulation, banks and thrifts are evaluated based on actual performance – loans made, services provided, and investments made in their communities.

The 1995 final CRA rule emphasizes direct lending. Loans originated by third-parties or through consortia count only if they meet the definition of community development loans and are considered only under the community development component of the lending test.

Appropriate Flexibility

Since 1995, the CRA regulation has distinguished between large and small institutions by providing a streamlined examination process for smaller independent banks and thrifts.

Wholesale and limited-purpose banks are evaluated based on their investment in or other support of organizations that promote credit availability to low- and moderate-income individuals or geographic areas and organizations and initiatives that foster community development, small and minority-owned business development, and funding for affordable housing.

All banks and thrifts have the option of developing a CRA strategic plan with input from their communities. Once the plan is approved by regulators, achievement of the goals and benchmarks outlined in the strategic plan will form the basis for evaluation of CRA performance.

Data Collection and Reporting

Small banks are not subject to any additional data collection and reporting requirements unless they opt out of the streamlined assessment procedures.

Larger banks and thrifts must collect and report to regulators aggregate data on their small business and small farm loans by census tract. They will not collect or report data on race and gender of small business borrowers.

Home Mortgage Disclosure Act (HMDA) data collection was expanded for large institutions to include collection and reporting of mortgage loans outside the metropolitan statistical areas (MSAs) where the institutions have branch offices.

Regulators prepare small business and small farm loan data disclosure statements annually for each individual reporting institution, along with aggregate disclosure statements for each MSA and non-MSA portion of each state. The Agencies are responsible for making aggregate disclosure statements available to the public at central depositories. Institutions must place their individual disclosure statements in their CRA public files.

Manual Conventions

The FFIEC issued updated Questions and Answers regarding CRA on March 11, 2010, and November 20, 2013. All questions and answers are quoted in their entirety within this manual. All FFIEC questions are indicated by a "Q" and are in bold and italics. Answers are indicated by an "A".

Section 2: Definitions

Affiliate

An affiliate is any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. § 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

Q: Does the definition of "affiliate" include subsidiaries of an institution?

A: Yes, "affiliate" includes any company that controls, is controlled by, or is under common control with another company. An institution's subsidiary is controlled by the institution and is, therefore, an affiliate.

Area Median Income

Area median income is:

1. The median family income for the MSA, if a person or geography is located in an MSA, or for the metropolitan division, if a person or geography is located in an MSA that has been subdivided into metropolitan divisions; or
2. The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

Assessment Area

An assessment area is a geographic area delineated in accordance with paragraph 41–Assessment Area Delineation.

Automated Teller Machine (ATM)

An automated teller machine (ATM) is an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank at which deposits are received, cash is dispersed, or money is lent.

Bank

Generally, a bank is any financial institution that makes loans and has Federal deposit insurance coverage. It also includes an uninsured branch of a foreign bank.

Branch

A branch is a staffed banking facility approved as a branch, whether shared or unshared, including, for example, a mini-branch in a grocery store or a branch operated in conjunction with any other local business or nonprofit organization.

Q: ***Do the definitions of "branch," "automated teller machine (ATM)," and "remote service facility (RSF)" include mobile branches, ATMs, and RSFs?***

A: Yes. Staffed mobile offices that are authorized as branches are considered "branches," and mobile ATMs and RSFs are considered "ATMs" and "RSFs."

Q: Are loan production offices (LPOs) branches for purposes of the CRA?

A: LPOs and other offices are not "branches" unless they are authorized as branches of the institution through the regulatory approval process of the institution's supervisory agency.

Community Development

Community development includes:

1. Affordable housing loans (including multifamily rental housing) for low- or moderate-income individuals;
2. Community services targeted to low- or moderate-income individuals;
3. Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of 13 C.F.R. § 121.301 or have gross annual revenues of $1 million or less; or
4. Activities that revitalize or stabilize:
    a. Low- or moderate-income geographies,
    b. Designated disaster areas, or
    c. Distressed or underserved nonmetropolitan middle-income geographies designated by the FRB, FDIC, and OCC based on:
        i. Rates of poverty, unemployment, and population loss, or
        ii. Population size, density, and dispersion. Activities revitalize and stabilize geographies designated based on population size, density, and dispersion if they help to meet essential community needs, including needs of low- and moderate-income individuals.
5. Loans, investments, and services that:
    a. Support, enable, or facilitate projects or activities that meet the "eligible uses" criteria described in Section 2301(c) of the Housing and Economic Recovery Act of 2008 (HERA), Public Law 110-289, 122 Stat. 2654, as amended, and are conducted in designated target areas identified in plans approved by the United States Department of Housing and Urban Development in accordance with the Neighborhood Stabilization Program (NSP);

b. Are provided no later than two years after the last date funds appropriated for the NSP are required to be spent by grantees; and

c. Benefit low-, moderate-, and middle-income individuals and geographies in the bank's assessment area(s) or areas outside the bank's assessment area(s) provided the bank has adequately addressed the community development needs of the assessment area(s).

Noteworthy is the fact that "the definition of community development restricts qualifying activities to those that promote community welfare, while recognizing that community welfare can be promoted in diverse ways. [As such,] . . . community development includes activities outside of low- and moderate-income areas if the activities provide affordable housing for, or community services targeted to, low- or moderate-income individuals or if they promote economic development by financing small businesses and farms. Activities that create, retain, or improve jobs for low- or moderate-income persons to stabilize or revitalize low- or moderate-income areas also qualify as community development, even if the activities are not located in low- or moderate-income areas."[3]

Q: Are community development activities limited to those that promote economic development?

A: No. Although the definition of "community development" includes activities that promote economic development by financing small businesses or farms, the rule does not limit community development loans and services and qualified investments to those activities. Community development also includes community- or tribal-based child care, educational, health, or social services targeted to low- or moderate-income persons, affordable housing for low- or moderate-income individuals, and activities that revitalize or stabilize low- or moderate-income areas, designated disaster areas, or underserved or distressed nonmetropolitan middle-income geographies.

Q: Must a community development activity occur inside a low- or moderate-income area, designated disaster area, or underserved or distressed nonmetropolitan middle-income area in order for an institution to receive CRA consideration for the activity?

A: No. Community development includes activities, regardless of their location, that provide affordable housing for, or community services targeted to, low- or moderate-income individuals and activities that promote economic development by financing small businesses and farms. Activities that stabilize or revitalize particular low- or moderate-income areas, designated disaster areas, or underserved or distressed nonmetropolitan middle-income areas (including by creating, retaining, or improving jobs for low- or moderate-income persons) also qualify as community development, even if the activities are not located in these areas. One example is financing a supermarket that serves as an anchor store in a small strip mall located at the edge of a middle-income area, if the mall stabilizes the adjacent low-income community by providing needed shopping services that are not otherwise available in the low-income community.

Q: Does the regulation provide flexibility in considering performance in high-cost areas?

A: Yes, the flexibility of the performance standards allows examiners to account in their

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3 *Federal Register*, Vol. 60, No. 86, Thursday, May 4, 1995, p. 22159.

evaluations for conditions in high-cost areas. Examiners consider lending and services to individuals and geographies of all income levels and businesses of all sizes and revenues. In addition, the flexibility in the requirement that community development loans, community development services, and qualified investments have as their "primary" purpose community development allows examiners to account for conditions in high-cost areas. For example, examiners could take into account the fact that activities address a credit shortage among middle-income people or areas caused by the disproportionately high cost of building, maintaining or acquiring a house when determining whether an institution's loan to or investment in an organization that funds affordable housing for middle-income people or areas, as well as low- and moderate-income people or areas, has as its primary purpose community development. See also Q&A §___.12(h)–8 for more information on "primary purpose."

Q: When determining whether a project is "affordable housing for low- or moderate-income individuals," thereby meeting the definition of "community development," will it be sufficient to use a formula that relates the cost of ownership, rental, or borrowing to the income levels in the area as the only factor, regardless of whether the users, likely users, or beneficiaries of that affordable housing are low- or moderate-income individuals?

A: The concept of "affordable housing" for low- or moderate-income individuals does hinge on whether low- or moderate-income individuals benefit, or are likely to benefit, from the housing. It would be inappropriate to give consideration to a project that exclusively or predominately houses families that are not low-or moderate-income simply because the rents or housing prices are set according to a particular formula.

For projects that do not yet have occupants, and for which the income of the potential occupants cannot be determined in advance, or in other projects where the income of occupants cannot be verified, examiners will review factors such as demographic, economic, and market data to determine the likelihood that the housing will "primarily" accommodate low- or moderate-income individuals. For example, examiners may look at median rents of the assessment area and the project; the median home value of either the assessment area, low- or moderate-income geographies or the project; the low- or moderate-income population in the area of the project; or the past performance record of the organization(s) undertaking the project. Further, such a project could receive consideration if its express, bona fide intent, as stated, for example, in a prospectus, loan proposal, or community action plan, is community development.

Q: Community development includes community services targeted to low- or moderate income individuals. What are examples of ways that an institution could determine that community services are offered to low- or moderate-income individuals?

A: Examples of ways in which an institution could determine that community services are targeted to low- or moderate-income persons include, but are not limited to:

- The community service is targeted to the clients of a nonprofit organization that has a defined mission of serving low- and moderate-income persons, or, because of government grants, for example, is limited to offering services only to low- or moderate-income persons.
- The community service is offered by a nonprofit organization that is located in and serves a low- or moderate-income geography.

- The community service is conducted in a low- or moderate-income area and targeted to the residents of the area.
- The community service is a clearly defined program that benefits primarily low- or moderate-income persons, even if it is provided by an entity that offers other programs that serve individuals of all income levels.
- The community service is offered at a workplace to workers who are low and moderate-income, based on readily available data for the average wage for workers in that particular occupation or industry (see, e.g., http://www.bls.gov/bls/blswage.htm (Bureau of Labor Statistics)).
- The community service is provided to students or their families from a school at which the majority of students qualify for free or reduced-price meals under the U.S. Department of Agriculture's National School Lunch Program.
- The community service is targeted to individuals who receive or are eligible to receive Medicaid.
- The community service is provided to recipients of government assistance programs that have income qualifications equivalent to, or stricter than, the definitions of low-and moderate-income as defined by the CRA Regulations. Examples include U.S. Department of Housing and Urban Development's section 8, 202, 515, and Supplemental Nutrition Assistance programs.

Q: ***"Community development" includes activities that promote economic development by financing businesses or farms that meet certain size eligibility standards. Are all activities that finance businesses and farms that meet these size eligibility standards considered to be community development?***

A: No. The concept of "community development" under 12 CFR __.12(g)(3) involves both a "size" test and a "purpose" test. An institution's loan, investment, or service meets the "size" test if it finances, either directly or through an intermediary, entities that either meet the size eligibility standards of the Small Business Administration's Development Company (SBDC) or Small Business Investment Company (SBIC) programs, or have gross annual revenues of $1 million or less.

To meet the "purpose test," the institution's loan, investment, or service must promote economic development. These activities are considered to promote economic development if they support permanent job creation, retention, and/or improvement for persons who are currently low- or moderate-income, or supports permanent job creation, retention, and/or improvement either in low- or moderate-income geographies or in areas targeted for redevelopment by Federal, state, local, or tribal governments. The agencies will presume that any loan to or investment in an SBDC, SBIC, Rural Business Investment Company, New Markets Venture Capital Company, or New Markets Tax Credit-eligible Community Development Entity promotes economic development. (But also refer to Q&As ___.42(b)(2)–2, ___.12(h)–2, and ___.12(h)–3 for more information about which loans may be considered community development loans.)

In addition to their quantitative assessment of the amount of a financial institution's community development activities, examiners must make qualitative assessments of an institution's leadership in community development matters and the complexity, responsiveness, and impact of the community development activities of the institution. In reaching a conclusion about the impact of an institution's community development activities, examiners may, for example, determine that a loan to a small business in a low- or moderate-income geography that provides needed jobs and services in that area may have a greater impact and be more responsive to the community credit needs than does a loan to a small business in the same geography that does not directly provide additional jobs or services to the community.

Q: Is the revised definition of community development, effective September 1, 2005 (under the OCC, Board, and FDIC rules) and effective April 12, 2006 (under OTS's rule), applicable to all institutions or only to intermediate small institutions?

A: The revised definition of community development is applicable to all institutions. Examiners will not use the revised definition to qualify activities that were funded or provided prior to September 1, 2005 (under the OCC, Board, and FDIC rules) or prior to April 12, 2006 (under OTS's rule).

Q: Will activities that provide housing for middle-income and upper-income persons qualify for favorable consideration as community development activities when they help to revitalize or stabilize a distressed or underserved nonmetropolitan middle-income geography or designated disaster areas?

A: An activity that provides housing for middle- or upper-income individuals qualifies as an activity that revitalizes or stabilizes a distressed nonmetropolitan middle-income geography or a designated disaster area if the housing directly helps to revitalize or stabilize the community by attracting new, or retaining existing, businesses or residents and, in the case of a designated disaster area, is related to disaster recovery. The Agencies generally will consider all activities that revitalize or stabilize a distressed nonmetropolitan middle-income geography or designated disaster area, but will give greater weight to those activities that are most responsive to community needs, including needs of low- or moderate-income individuals or neighborhoods. Thus, for example, a loan solely to develop middle- or upper-income housing in a community in need of low- and moderate-income housing would be given very little weight if there is only a short-term benefit to low- and moderate-income individuals in the community through the creation of temporary construction jobs. (Except in connection with intermediate small institutions, a housing-related loan is not evaluated as a "community development loan" if it has been reported or collected by the institution or its affiliate as a home mortgage loan, unless it is a multifamily dwelling loan. See 12 CFR___.12(h)(2)(i) and Q&As §___.12(h)–2 and §___.12(h)–3.) An activity will be presumed to revitalize or stabilize such a geography or area if the activity is consistent with a bona fide government revitalization or stabilization plan or disaster recovery plan. See Q&As §___.12(g)(4)(i)–1 and §___.12(h)–5.

In underserved nonmetropolitan middle-income geographies, activities that provide housing for middle- and upper-income individuals may qualify as activities that revitalize or stabilize such underserved areas if the activities also provide housing for low- or moderate-income individuals. For example, a loan to build a mixed-income housing development that provides housing for middle- and upper-income individuals in an underserved nonmetropolitan middle-income geography would receive positive consideration if it also provides housing for low- or moderate-income individuals.

Q: What activities are considered to "revitalize or stabilize" a low- or moderate-income geography, and how are those activities considered?

A: Activities that revitalize or stabilize a low- or moderate-income geography are activities that help to attract new, or retain existing, businesses or residents. Examiners will presume that an activity revitalizes or stabilizes a low- or moderate-income geography if the activity has been approved by the governing board of an Enterprise Community or Empowerment Zone (designated pursuant to 26 U.S.C. 1391) and is consistent with the board's strategic plan. They will make the same presumption if the activity has received similar official designation as consistent with a federal, state, local, or tribal government plan for the revitalization or stabilization of the low- or moderate-income geography. For example, foreclosure prevention programs with the objective of providing affordable, sustainable, long-term loan restructurings or modifications to homeowners in low- or moderate-income geographies, consistent with safe and sound banking practices, may help to revitalize or stabilize those geographies.

To determine whether other activities revitalize or stabilize a low- or moderate-income geography, examiners will evaluate the activity's actual impact on the geography, if information about this is available. If not, examiners will determine whether the activity is consistent with the community's formal or informal plans for the revitalization and stabilization of the low- or moderate-income geography. For more information on what activities revitalize or stabilize a low- or moderate-income geography, see Q&As §___.12(g)–2 and §___.12(h)–5.

Q: What is a "designated disaster area" and how long does it last?

A: A "designated disaster area" is a major disaster area designated by the federal government. Such disaster designations include, in particular, Major Disaster Declarations administered by the Federal Emergency Management Agency (FEMA) (http://www.fema.gov), but excludes counties designated to receive only FEMA Public Assistance Emergency Work Category A (Debris Removal) and/or Category B (Emergency Protective Measures).

Examiners will consider institution activities related to disaster recovery that revitalize or stabilize a designated disaster area for 36 months following the date of designation. Where there is a demonstrable community need to extend the period for recognizing revitalization or stabilization activities in a particular disaster area to assist in long-term recovery efforts, this time period may be extended.

Q: What activities are considered to "revitalize or stabilize" a designated disaster area, and how are those activities considered?

A: The Agencies generally will consider an activity to revitalize or stabilize a designated disaster area if it helps to attract new, or retain existing, businesses or residents and is related to disaster recovery. An activity will be presumed to revitalize or stabilize the area if the activity is consistent with a bona fide government revitalization or stabilization plan or disaster recovery plan. The Agencies generally will consider all activities relating to disaster recovery that revitalize or stabilize a designated disaster area, but will give greater weight to those activities that are most responsive to community needs, including the needs of low- or moderate-income individuals or neighborhoods. Qualifying activities may include, for example, providing financing to help retain businesses in the area that employ local residents, including low- and moderate-income individuals; providing financing to attract a major new employer that will create long-term job opportunities, including for low- and moderate-income individuals; providing financing or other assistance for essential community-wide infrastructure, community services, and rebuilding needs; and activities that provide housing, financial assistance, and services to individuals in designated disaster areas and to individuals who have been displaced from those areas, including low- and moderate-income individuals (see, e.g., Q&As §___.12(i)–3; §___.12(t)–4; §___.22(b)(2) & (3)–4;§___.22(b)(2) & (3)–5; and §___.24(d)(3)–1).

Q: ***What criteria are used to identify distressed or underserved nonmetropolitan, middle-income geographies?***

A: Eligible nonmetropolitan middle-income geographies are those designated by the Agencies as being in distress or that could have difficulty meeting essential community needs (underserved). A particular geography could be designated as both distressed and underserved. As defined in 12 CFR __.12(k), a geography is a census tract delineated by the United States Bureau of the Census.

A nonmetropolitan middle-income geography will be designated as distressed if it is in a county that meets one or more of the following triggers: (1) An unemployment rate of at least 1.5 times the national average, (2) a poverty rate of 20 percent or more, or (3) a population loss of 10 percent or more between the previous and most recent decennial census or a net migration loss of five percent or more over the five-year period preceding the most recent census.

A nonmetropolitan middle-income geography will be designated as underserved if it meets criteria for population size, density, and dispersion that indicate the area's population is sufficiently small, thin, and distant from a population center that the tract is likely to have difficulty financing the fixed costs of meeting essential community needs. The Agencies will use as the basis for these designations the "urban influence codes," numbered "7," "10," "11," and "12," maintained by the Economic Research Service of the United States Department of Agriculture.

The Agencies publish data source information along with the list of eligible non metropolitan census tracts on the Federal Financial Institutions Examination Council Web site (http://www.ffiec.gov).

Q: ***How often will the Agencies update the list of designated distressed and underserved nonmetropolitan middle-income geographies?***

A: The Agencies will review and update the list annually. The list is published on the Federal Financial Institutions Examination Council Web site (http://www.ffiec.gov).

To the extent that changes to the designated census tracts occur, the Agencies have determined to adopt a one-year "lag period." This lag period will be in effect for the twelve months immediately following the date when a census tract that was designated as distressed or underserved is removed from the designated list. Revitalization or stabilization activities undertaken during the lag period will receive consideration as community development activities if they would have been considered to have a primary purpose of community development if the census tract in which they were located were still designated as distressed or underserved.

Q: ***What activities are considered to "revitalize or stabilize" a distressed non-metropolitan middle-income geography, and how are those activities evaluated?***

A: An activity revitalizes or stabilizes a distressed nonmetropolitan middle-income geography if it helps to attract new, or retain existing, businesses or residents. An activity will be presumed to revitalize or stabilize the area if the activity is consistent with a bona fide government revitalization or stabilization plan. The Agencies generally will consider all activities that revitalize or stabilize a distressed nonmetropolitan middle-income geography, but will give greater weight to those activities that are most responsive to community needs, including needs of low- or moderate-income individuals or neighborhoods. Qualifying activities may include, for example, providing financing to attract a major new employer that will create long-term job opportunities, including for low- and moderate-income individuals, and activities that provide financing or other assistance for essential infrastructure or facilities necessary to attract or retain businesses or residents. See Q&As §___.12(g)(4)(i)–1 and §___.12(h)–5.

Q: What activities are considered to "revitalize or stabilize" an underserved nonmetropolitan middle-income geography, and how are those activities evaluated?

A: The regulation provides that activities revitalize or stabilize an underserved nonmetropolitan middle-income geography if they help to meet essential community needs, including needs of low- or moderate-income individuals. Activities such as financing for the construction, expansion, improvement, maintenance, or operation of essential infrastructure or facilities for health services, education, public safety, public services, industrial parks, or affordable housing, will be evaluated under these criteria to determine if they qualify for revitalization or stabilization consideration. Examples of the types of projects that qualify as meeting essential community needs, including needs of low- or moderate-income individuals, would be a new or expanded hospital that serves the entire county, including low- and moderate-income residents; an industrial park for businesses whose employees include low- or moderate-income individuals; a new or rehabilitated sewer line that serves community residents, including low- or moderate-income residents; a mixed-income housing development that includes affordable housing for low- and moderate-income families; or a renovated elementary school that serves children from the community, including children from low- and moderate-income families.

Other activities in the area, such as financing a project to build a sewer line spur that connects services to a middle-or-upper-income housing development while bypassing a low- or moderate-income development that also needs the sewer services, generally would not qualify for revitalization or stabilization consideration in geographies designated as underserved. However, if an underserved geography is also designated as distressed or a disaster area, additional activities may be considered to revitalize or stabilize the geography, as explained in Q&As §___.12(g)(4)(ii)–2 and §___.12(g)(4)(iii)–3.

Community Development Loan

A community development loan is a loan that:

1. Has as its primary purpose community development, and
2. Except in the case of a wholesale or limited-purpose bank,
   a. Has not been reported or collected by the bank or an affiliate for consideration in the bank's assessment as a home mortgage, small business, small farm, or consumer loan, unless it is a multifamily dwelling loan (as described in Appendix A to 12 C.F.R. § 1003 (HMDA), and
   b. Benefits the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

Examples of community development loans include, but are not limited to, loans to:

- Borrowers for affordable housing rehabilitation and construction, including construction and permanent financing of multifamily rental property serving low- and moderate-income persons;
- Not-for-profit organizations serving primarily low- and moderate-income housing or other community development needs;
- Borrowers in support of community facilities in low- and moderate-income areas or that are targeted to low- and moderate-income individuals; and
- Financial intermediaries including, but not limited to,:
  - community development financial institutions (CDFIs),
  - community development corporations (CDCs),
  - minority- and women-owned financial institutions, and
  - low-income or community development credit unions that primarily lend or facilitate lending in low- and moderate-income areas or to low- and moderate-income individuals in order to promote community development.

Other examples include loans to:

- Local, state, and tribal governments for community development activities, and
- Loans to finance environmental clean-up or redevelopment of an industrial site as part of an effort to revitalize the low- or moderate-income community in which the property is located.[4]

Activities not designed for the express purpose of revitalizing or stabilizing low- or moderate-income areas, providing affordable housing for, or community services targeted to, low- or moderate-income persons, or promoting economic development by financing small businesses and farms are not eligible.

The fact that an activity provides indirect or short-term benefits to low- or moderate-income persons does not make the activity community development. Thus, a loan for upper-income housing in a distressed area would not qualify simply on the basis of the indirect benefit to low- or moderate-income persons from construction jobs or the increase in the local tax base that supports enhanced services to low- and moderate-income area residents.

Q: What are examples of community development loans?

A: Examples of community development loans include, but are not limited to, loans to:

- Borrowers for affordable housing rehabilitation and construction, including construction and permanent financing of multifamily rental property serving low- and moderate-income persons;
- Not-for-profit organizations serving primarily low- and moderate-income housing or other community development needs;

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4 Footnote in *Federal Register*, Vol. 60, No. 86, Thursday, May 4, 1995, p. 22160.

- Borrowers to construct or rehabilitate community facilities that are located in low- and moderate-income areas or that serve primarily low- and moderate-income individuals;
- Financial intermediaries including Community Development Financial Institutions (CDFIs), New Markets Tax Credit-eligible Community Development Entities, Community Development Corporations (CDCs), minority- and women-owned financial institutions, community loan funds or pools, and low-income or community development credit unions that primarily lend or facilitate lending to promote community development;
- Local, state, and tribal governments for community development activities;
- Borrowers to finance environmental clean-up or redevelopment of an industrial site as part of an effort to revitalize the low- or moderate-income community in which the property is located; and
- Businesses, in an amount greater than $1 million, when made as part of the Small Business Administration's 504 Certified Development Company program.

The rehabilitation and construction of affordable housing or community facilities, referred to above, may include the abatement or remediation of, or other actions to correct, environmental hazards, such as lead-based paint, that are present in the housing, facilities, or site.

Q: If a retail institution that is not required to report under the Home Mortgage Disclosure Act (HMDA) makes affordable home mortgage loans that would be HMDA-reportable home mortgage loans if it were a reporting institution, or if a small institution that is not required to collect and report loan data under the CRA makes small business and small farm loans and consumer loans that would be collected and/or reported if the institution were a large institution, may the institution have these loans considered as community development loans?

A: No. Although small institutions are not required to report or collect information on small business and small farm loans and consumer loans, and some institutions are not required to report information about their home mortgage loans under HMDA, if these institutions are retail institutions, the agencies will consider in their CRA evaluations the institutions' originations and purchases of loans that would have been collected or reported as small business, small farm, consumer or home mortgage loans, had the institution been a collecting and reporting institution under the CRA or the HMDA. Therefore, these loans will not be considered as community development loans, unless the small institution is an intermediate small institution (see §___.12(h)–3). Multifamily dwelling loans, however, may be considered as community development loans as well as home mortgage loans. See also Q&A §)___.42(b)(2)–2.

Q: May an intermediate small institution that is not subject to HMDA reporting have home mortgage loans considered as community development loans? Similarly, may an intermediate small institution have small business and small farm loans and consumer loans considered as community development loans?

A: Yes. In instances where intermediate small institutions are not required to report HMDA or small business or small farm loans, these loans may be considered, at the institution's option, as community development loans, provided they meet the regulatory definition of "community development." If small business or small farm loan data have been reported to the agencies to preserve the option to be evaluated as a large institution, but the institution ultimately chooses to be evaluated under the intermediate small institution examination standards, then the institution would continue to have the option to have such loans considered as community development loans. However, if the institution opts to be evaluated under the lending, investment, and service tests applicable to large institutions, it may not choose to have home mortgage, small business, small farm, or consumer loans considered as community development loans.

Loans other than multifamily dwelling loans may not be considered under both the lending test and the community development test for intermediate small institutions. Thus, if an institution elects to have certain loans considered under the community development test, those loans may not also be considered under the lending test, and would be excluded from the lending test analysis.

Intermediate small institutions may choose individual loans within their portfolio for community development consideration. Examiners will evaluate an intermediate small institution's community development activities within the context of the responsiveness of the activity to the community development needs of the institution's assessment area.

Q: Do secured credit cards or other credit card programs targeted to low- or moderate-income individuals qualify as community development loans?

A: No. Credit cards issued to low- or moderate-income individuals for household, family, or other personal expenditures, whether as part of a program targeted to such individuals or otherwise, do not qualify as community development loans because they do not have as their primary purpose any of the activities included in the definition of "community development."

Q: The regulation indicates that community development includes "activities that revitalize or stabilize low- or moderate-income geographies." Do all loans in a low- to moderate-income geography have a stabilizing effect?

A: No. Some loans may provide only indirect or short-term benefits to low- or moderate-income individuals in a low-or moderate-income geography. These loans are not considered to have a community development purpose. For example, a loan for upper-income housing in a low- or moderate-income area is not considered to have a community development purpose simply because of the indirect benefit to low- or moderate-income persons from construction jobs or the increase in the local tax base that supports enhanced services to low- and moderate-income area residents. On the other hand, a loan for an anchor business in a low- or moderate-income area (or a nearby area) that employs or serves residents of the area and, thus, stabilizes the area, may be considered to have a community development purpose. For example, in a low-income area, a loan for a pharmacy that employs and serves residents of the area promotes community development.

Q: Must there be some immediate or direct benefit to the institution's assessment area(s) to satisfy the regulations' requirement that qualified investments and community development loans or services benefit an institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?

A: No. The regulations recognize that community development organizations and programs are efficient and effective ways for institutions to promote community development. These organizations and programs often operate on a statewide or even multistate basis. Therefore, an institution's activity is considered a community development loan or service or a qualified investment if it supports an organization or activity that covers an area that is larger than, but includes, the institution's assessment area(s). The institution's assessment area(s) need not receive an immediate or direct benefit from the institution's participation in the organization or activity, provided that the purpose, mandate, or function of the organization or activity includes serving geographies or individuals located within the institution's assessment area(s).

In addition, a retail institution will receive consideration for certain other community development activities. These activities must benefit geographies or individuals located somewhere within a broader statewide or regional area that includes the institution's assessment area(s). Examiners will consider these activities even if they will not benefit the institution's assessment area(s), as long as the institution has been responsive to community development needs and opportunities in its assessment area(s).

Q: What is meant by the term "regional area"?

A: A "regional area" may be an intrastate area or a multistate area that includes the financial institution's assessment area(s). Regional areas typically have some geographic, demographic, and/or economic interdependencies and may conform to commonly accepted delineations, such as "the tri-county area" or the "mid-Atlantic states." Regions are often defined by the geographic scope and specific purpose of a community development organization or initiative.

Q: What is meant by the term "primary purpose" as that term is used to define what constitutes a community development loan, a qualified investment or a community development service?

A: A loan, investment or service has as its primary purpose community development when it is designed for the express purpose of revitalizing or stabilizing low- or moderate-income areas, designated disaster areas, or underserved or distressed nonmetropolitan middle-income areas, providing affordable housing for, or community services targeted to, low- or moderate-income persons, or promoting economic development by financing small businesses and farms that meet the requirements set forth in 12 CFR ___.12(g). To determine whether an activity is designed for an express community development purpose, the agencies apply one of two approaches. First, if a majority of the dollars or beneficiaries of the activity are identifiable to one or more of the enumerated community development purposes, then the activity will be considered to possess the requisite primary purpose. Alternatively, where the measurable portion of any benefit bestowed or dollars applied to the community development purpose is less than a majority of the entire activity's benefits or dollar value, then the activity may still be considered to possess the requisite primary purpose and the institution may receive CRA consideration for the entire activity, if (1) the express, bona fide intent of the activity, as stated, for example, in a prospectus, loan proposal, or community action plan, is primarily one or more of the enumerated community development purposes; (2) the activity is specifically structured (given any relevant market or legal constraints or performance context factors) to achieve the expressed community development purpose; and (3) the activity accomplishes, or is reasonably certain to accomplish, the community development purpose involved.

Generally, a loan, investment, or service will be determined to have a "primary purpose" of community development only if it meets the criteria described above. However, an activity involving the provision of affordable housing also may be deemed to have a "primary purpose" of community development in certain other limited circumstances in which these criteria have not been met. Specifically, activities related to the provision of mixed-income housing, such as in connection with a development that has a mixed-income housing component or an affordable housing set-aside required by federal, state, or local government, also would be eligible for consideration as an activity that has a "primary purpose" of community development at the election of the institution. In such cases, an institution may receive pro rata consideration for the portion of such activities that helps to provide affordable housing to low- or moderate income individuals. For example, if an institution makes a $10 million loan to finance a mixed-income housing development in which ten percent of the units will be set aside as affordable housing for low- and moderate-income individuals, the institution may elect to treat $1 million of such loan as a community development loan. In other words, the pro rata dollar amount of the total activity will be based on the percentage of units set aside for affordable housing for low- or moderate-income individuals.

The fact that an activity provides indirect or short-term benefits to low- or moderate-income persons does not make the activity community development, nor does the mere presence of such indirect or short-term benefits constitute a primary purpose of community development. Financial institutions that want examiners to consider certain activities should be prepared to demonstrate the activities' qualifications.

Community Development Service

A community development service is a service that:

1. Has as its primary purpose community development;
2. Is related to the provision of financial services; and
3. Has not been considered in the evaluation of the bank's retail banking services under paragraph 24(d)–Service Test Performance Criteria.

Examples of community development services include, among other things:

- Providing technical expertise for not-for-profit, tribal, or government organizations serving low- and moderate-income housing needs or economic revitalization and development;
- Lending executives to organizations that facilitate affordable housing construction and rehabilitation or development of affordable housing;
- Providing credit counseling, home buyer counseling, home maintenance counseling, and/or financial planning to promote community development and affordable housing;
- School savings programs; and
- Other financial services of which the primary purpose is community development, such as low-cost or free government check cashing.[5]

Examples of technical assistance activities that might be provided to community development organizations include:

- Serving on a loan review committee;

5 Footnote in *Federal Register*, Vol. 60, No. 86, Thursday, May 4, 1995, p. 22160.

- Developing loan application and underwriting standards;
- Developing loan processing systems;
- Developing secondary market vehicles or programs;
- Assisting in marketing financial services, including development of advertising and promotions, publications, workshops and conferences;
- Furnishing financial services training for staff and management;
- Contributing accounting/bookkeeping services; and
- Assisting in fund raising, including soliciting or arranging investments.

Q: In addition to meeting the definition of "community development" in the regulation, community development services must also be related to the provision of financial services. What is meant by "provision of financial services"?

A: Providing financial services means providing services of the type generally provided by the financial services industry. Providing financial services often involves informing community members about how to get or use credit or otherwise providing credit services or information to the community. For example, service on the board of directors of an organization that promotes credit availability or finances affordable housing is related to the provision of financial services. Providing technical assistance about financial services to community-based groups, local or tribal government agencies, or intermediaries that help to meet the credit needs of low- and moderate-income individuals or small businesses and farms is also providing financial services. By contrast, activities that do not take advantage of the employees' financial expertise, such as neighborhood cleanups, do not involve the provision of financial services.

Q: Are personal charitable activities provided by an institution's employees or directors outside the ordinary course of their employment considered community development services?

A: No. Services must be provided as a representative of the institution. For example, if a financial institution's director, on her own time and not as a representative of the institution, volunteers one evening a week at a local community development corporation's financial counseling program, the institution may not consider this activity a community development service.

Q: What are examples of community development services?

A: Examples of community development services include, but are not limited to, the following:

- Providing financial services to low-and moderate-income individuals through branches and other facilities located in low- and moderate-income areas, unless the provision of such services has been considered in the evaluation of an institution's retail banking services under 12 CFR ___.24(d);
- Increasing access to financial services by opening or maintaining branches or other facilities that help to revitalize or stabilize a low- or moderate-income geography, a designated disaster area, or a distressed or underserved nonmetropolitan middle-income geography, unless the opening or maintaining of such branches or other facilities has been considered in the evaluation of the institution's retail banking services under 12 CFR ___.24(d);

- Providing technical assistance on financial matters to nonprofit, tribal, or government organizations serving low-and moderate-income housing or economic revitalization and development needs;
- Providing technical assistance on financial matters to small businesses or community development organizations, including organizations and individuals who apply for loans or grants under the Federal Home Loan Banks' Affordable Housing Program;
- Lending employees to provide financial services for organizations facilitating affordable housing construction and rehabilitation or development of affordable housing;
- Providing credit counseling, homebuyer and home-maintenance counseling, financial planning or other financial services education to promote community development and affordable housing, including credit counseling to assist low- or moderate-income borrowers in avoiding foreclosure on their homes;
- Establishing school savings programs or developing or teaching financial education or literacy curricula for low- or moderate-income individuals;
- Providing electronic benefits transfer and point of sale terminal systems to improve access to financial services, such as by decreasing costs, for low- or moderate-income individuals;
- Providing international remittance services that increase access to financial services by low- and moderate-income persons (for example, by offering reasonably priced international remittance services in connection with a low-cost account);
- Providing other financial services with the primary purpose of community development, such as low-cost savings or checking accounts, including "Electronic Transfer Accounts" provided pursuant to the Debt Collection Improvement Act of 1996, individual development accounts (IDAs), or free or low-cost government, payroll, or other check cashing services, that increase access to financial services for low- or moderate-income individuals; and
- Providing foreclosure prevention programs to low- or moderate-income homeowners who are facing foreclosure on their primary residence with the objective of providing affordable, sustainable, long-term loan modifications and restructurings.

Examples of technical assistance activities that are related to the provision of financial services and that might be provided to community development organizations include:

- Serving on the board of directors;
- Serving on a loan review committee;
- Developing loan application and underwriting standards;
- Developing loan processing systems;
- Developing secondary market vehicles or programs;
- Assisting in marketing financial services, including development of advertising and promotions, publications, workshops and conferences;
- Furnishing financial services training for staff and management;
- Contributing accounting/bookkeeping services;
- Assisting in fund raising, including soliciting or arranging investments; and

- Providing services reflecting financial institution employees' areas of expertise at the institution, such as human resources, information technology, and legal services.

Consumer Loan

A consumer loan is a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. Consumer loans include the following categories of loans:

1. Motor vehicle loan, which is a consumer loan extended for the purchase of and secured by a motor vehicle
2. Credit card loan, which is a line of credit for household, family, or other personal expenditures that is accessed by a borrower's use of a "credit card"
3. Home equity loan, which is a consumer loan secured by a residence of the borrower
4. Other secured consumer loan, which is a secured consumer loan that is not included in one of the other categories of consumer loans
5. Other unsecured consumer loan, which is an unsecured consumer loan that is not included in one of the other categories of consumer loans

Q: Are home equity loans considered "consumer loans"?

A: Home equity loans made for purposes other than home purchase, home improvement or refinancing home purchase or home improvement loans are consumer loans if they are extended to one or more individuals for household, family, or other personal expenditures.

Q: May a home equity line of credit be considered a "consumer loan" even if part of the line is for home improvement purposes?

A: If the predominant purpose of the line is home improvement, the line may only be reported under HMDA and may not be considered a consumer loan. However, the full amount of the line may be considered a "consumer loan" if its predominant purpose is for household, family, or other personal expenditures, and to a lesser extent home improvement, and the full amount of the line has not been reported under HMDA. This is the case even though there may be "double counting" because part of the line may also have been reported under HMDA.

Q: How should an institution collect or report information on loans the proceeds of which will be used for multiple purposes?

A: If an institution makes a single loan or provides a line of credit to a customer to be used for both consumer and small business purposes, consistent with the Call Report and TFR instructions, the institution should determine the major (predominant) component of the loan or the credit line and collect or report the entire loan or credit line in accordance with the regulation's specifications for that loan type.

Geography

"Geography" means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.

Home Mortgage Loan

A "home mortgage loan" means a "home improvement loan" or a "home purchase loan" or a "refinancing" as defined in §1003.2 of the HMDA regulation.

A "home improvement loan" is any loan that:

1. Is secured by a lien on a dwelling and is for the purpose, in whole or in part, of repairing, rehabilitating, remodeling, or improving a dwelling or the real property on which it is located and
2. A non-dwelling secured loan that is for the purpose, in whole or in part, of repairing, rehabilitating, remodeling, or improving a dwelling or the real property on which it is located, and that is classified by the financial institution as a home improvement loan.

A "home purchase loan" is any loan secured by a dwelling and made for the purpose of purchasing a dwelling.

A refinancing is any loan or loans that is/are refinanced by extinguishing the old obligation and creating a new obligation, and in which one or more of the "old" loans is/are secured by a dwelling. The original purpose of the loans being refinanced is not material.

Q: Does the term "home mortgage loan" include loans other than "home purchase loans"?

A: Yes. "Home mortgage loan" includes "home improvement loan," "home purchase loan," and "refinancing," as defined in the HMDA regulation, Regulation C, 12 CFR part 1003. This definition also includes multifamily (five-or-more families) dwelling loans, and loans for the purchase of manufactured homes. See also Q&A §___.22(a)(2)–7.

Q: Some financial institutions broker home mortgage loans. They typically take the borrower's application and perform other settlement activities; however, they do not make the credit decision. The broker institutions may also initially fund these mortgage loans, then immediately assign them to another lender. Because the broker institution does not make the credit decision, under Regulation C (HMDA), they do not record the loans on their HMDA–LARs, even if they fund the loans. May an institution receive any consideration under CRA for its home mortgage loan brokerage activities?

A: Yes. A financial institution that funds home mortgage loans but immediately assigns the loans to the lender that made the credit decisions may present information about these loans to examiners for consideration under the lending test as "other loan data." Under Regulation C, the broker institution does not record the loans on its HMDA–LAR because it does not make the credit decisions, even if it funds the loans. An institution electing to have these home mortgage loans considered must maintain information about all of the home mortgage loans that it has funded in this way. Examiners will consider these other loan data using the same criteria by which home mortgage loans originated or purchased by an institution are evaluated.

Institutions that do not provide funding but merely take applications and provide settlement services for another lender that makes the credit decisions will receive consideration for this service as a retail banking service. Examiners will consider an institution's mortgage brokerage services when evaluating the range of services provided to low-, moderate-, middle- and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies. Alternatively, an institution's mortgage brokerage service may be considered a community development service if the primary purpose of the service is community development. An institution wishing to have its mortgage brokerage service considered as a community development service must provide sufficient information to substantiate that its primary purpose is community development and to establish the extent of the services provided.

Income Level

Income level includes:

1. *Low-income*, which means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a geography.
2. *Moderate-income*, which means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 and less than 80 percent, in the case of a geography.
3. *Middle-income*, which means an individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 and less than 120 percent, in the case of a geography.
4. *Upper-income*, which means an individual income that is 120 percent or more of the area median income, or a median family income that is 120 percent or more, in the case of a geography.

Q: Where do institutions find income level data for geographies and individuals?

A: The income levels for geographies, i.e., census tracts, are derived from Census Bureau information and are updated approximately every ten years. The income levels for individuals are derived from information calculated by the Department of Housing and Urban Development (HUD) and updated annually.

Institutions may obtain 2000 geography income information and the annually updated HUD median family incomes for metropolitan statistical areas (MSAs) and statewide non metropolitan areas by accessing the Federal Financial Institution Examination Council's (FFIEC's) Web site at http://www.ffiec.gov/cra or by calling the FFIEC's CRA Assistance Line at (202) 872–7584.

Limited-Purpose Bank

A limited-purpose bank is a bank that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited-purpose bank is in effect, in accordance with paragraph 25(b)–Community Development Test for Wholesale or Limited-Purpose Banks.

Q: What constitutes a "narrow product line" in the definition of "limited purpose institution"?

A: An institution offers a narrow product line by limiting its lending activities to a product line other than a traditional retail product line required to be evaluated under the lending test (i.e., home mortgage, small business, and small farm loans). Thus, an institution engaged only in making credit card or motor vehicle loans offers a narrow product line, while an institution limiting its lending activities to home mortgages is not offering a narrow product line.

Q: What factors will the agencies consider to determine whether an institution that, if limited purpose, makes loans outside a narrow product line, or, if wholesale, engages in retail lending, will lose its limited purpose or wholesale designation because of too much other lending?

A: Wholesale institutions may engage in some retail lending without losing their designation if this activity is incidental and done on an accommodation basis. Similarly, limited purpose institutions continue to meet the narrow product line requirement if they provide other types of loans on an infrequent basis. In reviewing other lending activities by these institutions, the agencies will consider the following factors:

- Is the retail lending provided as an incident to the institution's wholesale lending?
- Are the retail loans provided as an accommodation to the institution's wholesale customers?
- Are the other types of loans made only infrequently to the limited purpose institution's customers?
- Does only an insignificant portion of the institution's total assets and income result from the other lending?
- How significant a role does the institution play in providing that type(s) of loan(s) in the institution's assessment area(s)?
- Does the institution hold itself out as offering that type(s) of loan(s)?
- Does the lending test or the community development test present a more accurate picture of the institution's CRA performance?

Q: Do "niche institutions" qualify as limited purpose (or wholesale) institutions?

A: Generally, no. Institutions that are in the business of lending to the public, but specialize in certain types of retail loans (for example, home mortgage or small business loans) to certain types of borrowers (for example, to high-end income level customers or to corporations or partnerships of licensed professional practitioners) ("niche institutions") generally would not qualify as limited purpose (or wholesale) institutions.

Loan Location

A loan is located as follows:

1. A ***consumer loan*** is located in the geography where the borrower resides;

2. A ***home mortgage loan*** is located in the geography where the property to which the loan relates is located; and
3. A ***small business or small farm loan*** is located in the geography where the main business facility or farm is located **or** where the loan proceeds otherwise will be applied, as indicated by the borrower.

Loan Production Office

A loan production office is a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

Metropolitan Division

A metropolitan division means a metropolitan division as defined by the Director of the Office of Management and Budget.

MSA

An MSA is a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

Qualified Investment

A qualified investment is a lawful investment, deposit, membership share, or grant that has as its primary purpose community development.

Examples of qualified investments include, but are not limited to, investments, grants, deposits, or shares:

- In or to financial intermediaries (including, but not limited to, CDFIs, CDCs, minority- and women-owned financial institutions, and low-income or community development credit unions) that primarily lend or facilitate lending in low- and moderate-income areas or to low- and moderate-income individuals in order to promote community development, such as a CDFI that promotes economic development on an Indian reservation;
- In support of organizations engaged in affordable housing rehabilitation and construction, including multifamily rental housing;
- In support of organizations promoting economic development by financing small businesses, including small business investment companies (SBICs) and specialized SBICs;
- To support or develop facilities that promote community development in low- and moderate-income areas for low- and moderate-income individuals, such as daycare facilities;
- In projects eligible for low-income housing tax credits;

- In state and municipal obligations that specifically support affordable housing or other community development;
- To not-for-profit organizations serving low- and moderate-income housing or other community development needs, such as homeownership counseling, home maintenance counseling, credit counseling, and other financial services education; and
- In or to organizations supporting activities essential to the capacity of low- and moderate-income individuals or geographies to utilize credit or to sustain economic development.[6]

Q: ***Does the CRA regulation provide authority for institutions to make investments?***

A: No. The CRA regulation does not provide authority for institutions to make investments that are not otherwise allowed by Federal law.

Q: ***Are mortgage-backed securities or municipal bonds "qualified investments"?***

A: As a general rule, mortgage-backed securities and municipal bonds are not qualified investments because they do not have as their primary purpose community development, as defined in the CRA regulations. Nonetheless, mortgage-backed securities or municipal bonds designed primarily to finance community development generally are qualified investments. Municipal bonds or other securities with a primary purpose of community development need not be housing-related. For example, a bond to fund a community facility or park or to provide sewage services as part of a plan to redevelop a low-income neighborhood is a qualified investment. Certain municipal bonds in underserved non metropolitan middle-income geographies may also be qualified investments. See Q&A §___.12(g)(4)(iii)–4. Housing-related bonds or securities must primarily address affordable housing (including multifamily rental housing) needs of low- or moderate-income individuals in order to qualify. See also Q&A §___.23(b)–2.

Q: ***Are Federal Home Loan Bank stocks or unpaid dividends and membership reserves with the Federal Reserve Banks "qualified investments"?***

A: No. Federal Home Loan Bank (FHLB) stocks or unpaid dividends, and membership reserves with the Federal Reserve Banks do not have a sufficient connection to community development to be qualified investments. However, FHLB member institutions may receive CRA consideration as a community development service for technical assistance they provide on behalf of applicants and recipients of funding from the FHLB's Affordable Housing Program. See Q&A §___.12(i)–3.

Q: ***What are examples of qualified investments?***

A: Examples of qualified investments include, but are not limited to, investments, grants, deposits, or shares in or to:

- Financial intermediaries (including Community Development Financial Institutions (CDFIs), New Markets Tax Credit-eligible Community Development Entities, Community Development Corporations (CDCs), minority- and women-owned financial institutions, community loan funds, and low-income or community development credit unions) that primarily lend or facilitate lending in low- and moderate-income areas or to low- and

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6 Footnote in *Federal Register*, Vol. 60, No. 86, Thursday, May 4, 1995, p. 22162.

moderate-income individuals in order to promote community development, such as a CDFI that promotes economic development on an Indian reservation;

- Organizations engaged in affordable housing rehabilitation and construction, including multifamily rental housing;
- Organizations, including, for example, Small Business Investment Companies (SBICs), specialized SBICs, and Rural Business Investment Companies (RBICs) that promote economic development by financing small businesses;
- Community development venture capital companies that promote economic development by financing small businesses;
- Facilities that promote community development by providing community services for low- and moderate-income individuals, such as youth programs, homeless centers, soup kitchens, health care facilities, battered women's centers, and alcohol and drug recovery centers;
- Projects eligible for low-income housing tax credits;
- State and municipal obligations, such as revenue bonds, that specifically support affordable housing or other community development;
- Not-for-profit organizations serving low- and moderate-income housing or other community development needs, such as counseling for credit, homeownership, home maintenance, and other financial literacy programs; and
- Organizations supporting activities essential to the capacity of low- and moderate-income individuals or geographies to utilize credit or to sustain economic development, such as, for example, day care operations and job training programs that enable low- or moderate-income individuals to work. See also Q&As §___.12(g)(4)(ii)–2; §___.12(g)(4)(iii)–3; §___.12(g)(4)(iii)–4.

Q: Will an institution receive consideration for charitable contributions as "qualified investments"?

A: Yes, provided they have as their primary purpose community development as defined in the regulations. A charitable contribution, whether in cash or an in-kind contribution of property, is included in the term "grant." A qualified investment is not disqualified because an institution receives favorable treatment for it (for example, as a tax deduction or credit) under the Internal Revenue Code.

Q: An institution makes or participates in a community development loan. The institution provided the loan at below-market interest rates or "bought down" the interest rate to the borrower. Is the lost income resulting from the lower interest rate or buy-down a qualified investment?

A: No. The agencies will, however, consider the responsiveness, innovativeness, and complexity of the community development loan within the bounds of safe and sound banking practices.

Q: Will the agencies consider as a qualified investment the wages or other compensation of an employee or director who provides assistance to a community development organization on behalf of the institution?

A: No. However, the agencies will consider donated labor of employees or directors of a financial institution as a community development service if the activity meets the regulatory definition of "community development service."

Q: When evaluating a qualified investment, what consideration will be given for prior-period investments?

A: When evaluating an institution's qualified investment record, examiners will consider investments that were made prior to the current examination, but that are still outstanding. Qualitative factors will affect the weighting given to both current period and outstanding prior-period qualified investments. For example, a prior-period outstanding investment with a multi-year impact that addresses assessment area community development needs may receive more consideration than a current period investment of a comparable amount that is less responsive to area community development needs.

Q: How do examiners evaluate loans or investments to organizations that, in turn, invest in instruments that do not have a community development purpose, and use only the income, or a portion of the income, from those investments to support their community development purpose?

A: Examiners will give quantitative consideration for the dollar amount of funds that benefit an organization or activity that has a primary purpose of community development. If an institution invests in (or leads to) an organization that, in turn, invests those funds in instruments that do not have as their primary purpose community development, such as Treasury securities, and uses only the income, or a portion of the income, from those investments to support the organization's community development purposes, the Agencies will consider only the amount of the investment income used to benefit the organization or activity that has a community development purpose for CRA purposes. Examiners will, however, provide consideration for such instruments when the organization invests solely as a means of securing capital for leveraging purposes, securing additional financing, or in order to generate a return with minimal risk until funds can be deployed toward the originally intended community development activity. The organization must express a bona fide intent to deploy the funds from investments and loans in a manner that primarily serves a community development purpose in order for the institution to receive consideration under the applicable test.

Small Bank or Small Savings Association

"Small bank" or "small savings association" means an institution that, as of Dec. 31 of either of the prior two calendar years, had assets of less than $ 1.216 billion.

"Intermediate small bank" or "intermediate small savings association" means a small institution with assets of at least $304 million as of Dec. 31 of both of the prior two calendar years, and less than $1.216 billion as of Dec. 31 of either of the prior two calendar years.

These asset-size threshold adjustments were effective January 1, 2015.

These dollar figures will be adjusted annually and published by the agencies, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million.

Q: How are Federal and State branch assets of a foreign bank calculated for purposes of the CRA?

A: A Federal or State branch of a foreign bank is considered a small institution if the Federal or State branch has assets less than the asset threshold delineated in 12 CFR ___.12(u)(1) for small institutions.

Q: How often will the asset size thresholds for small institutions and intermediate small-institutions be changed, and how will these adjustments be communicated?

A: The asset size thresholds for "small institutions" and "intermediate small institutions" will be adjusted annually based on changes to the Consumer Price Index. More specifically, the dollar thresholds will be adjusted annually based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted for each twelvemonth period ending in November, with rounding to the nearest million. Any changes in the asset size thresholds will be published in the *Federal Register*. Historical and current asset-size threshold information may be found on the FFIEC's Web site at http://www.ffiec.gov/cra.

Small Business Loan

A small business loan is a loan included in "loans to small businesses" as defined in the instructions for preparation of the Consolidated Report of Condition and Income, or a loan of less than $1,000,000.

Q: Are loans to nonprofit organizations considered small business loans or are they considered community development loans?

A: To be considered a small business loan, a loan must meet the definition of "loan to small business" in the instructions in the "Consolidated Reports of Conditions and Income" (Call Report) and "Thrift Financial Report" (TFR). In general, a loan to a nonprofit organization, for business or farm purposes, where the loan is secured by nonfarm nonresidential property and the original amount of the loan is $1 million or less, if a business loan, or $500,000 or less, if a farm loan, would be reported in the Call Report and TFR as a small business or small farm loan. If a loan to a nonprofit organization is reportable as a small business or small farm loan, it cannot also be considered as a community development loan, except by a wholesale or limited purpose institution. Loans to nonprofit organizations that are not small business or small farm loans for Call Report and TFR purposes may be considered as community development loans if they meet the regulatory definition of "community development."

Q: Are loans secured by commercial real estate considered small business loans?

A: Yes, depending on their principal amount. Small business loans include loans secured by "nonfarm nonresidential properties," as defined in the Call Report and TFR, in amounts of $1 million or less.

Q: Are loans secured by nonfarm residential real estate to finance small businesses "small business loans"?

A: *Applicable to banks filing Call Reports:* Typically not. Loans secured by nonfarm residential real estate that are used to finance small businesses are not included as "small business" loans for Call Report purposes unless the security interest in the nonfarm residential real estate is taken only as an abundance of caution. (See Call Report Glossary definition of "Loan Secured by Real Estate.") The agencies recognize that many small businesses are financed by loans that would not have been made or would have been made on less favorable terms had they not been secured by residential real estate. If these loans promote community development, as defined in the regulation, they may be considered as community development loans. Otherwise, at an institution's option, the institution may collect and maintain data separately concerning these loans and request that the data be considered in its CRA evaluation as "Other Secured Lines/Loans for Purposes of Small Business." See also Q&A §___.22(a)(2)–7.

Applicable to institutions that file TFRs: Possibly, depending how the loan is classified for TFR purposes. Loans secured by nonfarm residential real estate to finance small businesses may be included as small business loans only if they are reported on the TFR as nonmortgage, commercial loans. (See TFR Q&A No. 62.) Otherwise, loans that meet the definition of mortgage loans, for TFR reporting purposes, may be classified as mortgage loans.

Q: Are credit cards issued to small businesses considered "small business loans"?

A: Credit cards issued to a small business or to individuals to be used, with the institution's knowledge, as business accounts are small business loans if they meet the definitional requirements in the Call Report or TFR instructions.

Small Farm Loan

A small farm loan is a loan included in "loans to small farms" as defined in the instructions for preparation of the Consolidated Report of Condition and Income, or a loan of less than $500,000.

Wholesale Bank

A wholesale bank is a bank that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale bank is in effect, in accordance with paragraph 25(b)–Community Development Test for Wholesale or Limited-Purpose Banks.

Q: What factors will the agencies consider in determining whether an institution is in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers?

A: The agencies will consider whether:

- The institution holds itself out to the retail public as providing such loans; and
- The institution's revenues from extending such loans are significant when compared to its overall operations, including off-balance sheet activities.

A wholesale institution may make some retail loans without losing its wholesale designation as described above in Q&A §___.12(n)–2.

Section 3: Subpart B – Standards for Assessing Performance

Performance Tests, Standards, and Ratings[7]

The regulatory Agencies will assess the CRA performance of a bank in an examination as follows:

1. ***Lending, investment, and service tests.*** The regulatory Agencies will apply the lending, investment, and service tests in evaluating the performance of a bank.
2. ***Community development test for wholesale or limited-purpose banks.*** The regulatory Agencies will apply the community development test for a wholesale or limited-purpose bank.
3. ***Small-bank performance standards.*** The regulatory Agencies will apply the small-bank performance standards in evaluating the performance of a small bank or a bank that was a small bank during the prior calendar year, unless the bank elects to be assessed by another method. The bank may elect to be assessed under the lending, investment, and service tests only if it collects and reports the data required for other banks under paragraph 42–Data Collection, Reporting, and Disclosure.
4. ***Strategic plan.*** The regulatory Agencies will evaluate the performance of a bank under a strategic plan if the bank submits, and the regulatory Agencies approve, a strategic plan as provided in paragraph 27–Strategic Plan.

Q: How will examiners apply the performance criteria?

A: Examiners will apply the performance criteria reasonably and fairly, in accord with the regulations, the examination procedures, and this guidance. In doing so, examiners will disregard efforts by an institution to manipulate business operations or present information in an artificial light that does not accurately reflect an institution's overall record of lending performance.

Q: Are all community development activities weighted equally by examiners?

A: No. Examiners will consider the responsiveness to credit and community development needs, as well as the innovativeness and complexity, if applicable, of an institution's community development lending, qualified investments, and community development services. These criteria include consideration of the degree to which they serve as a catalyst for other community development activities. The criteria are designed to add a qualitative element to the evaluation of an institution's performance. ("Innovativeness" and "complexity" are not factors in the community development test applicable to intermediate small institutions.)

Performance Context

The regulatory Agencies will apply the tests and standards noted above and/or will consider whether to approve a proposed strategic plan in the context of:

1. Demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and other relevant data pertaining to a bank's assessment area(s);

7 12C.F.R. § 25.12, 228.12, 345.12.

2. Any information about lending, investment, and service opportunities in the bank's assessment area(s) maintained by the bank or obtained from community organizations, state, local, and tribal governments, economic development Agencies, or other sources;
3. The bank's product offerings and business strategy as determined from data provided by the bank;
4. Institutional capacity and constraints, including the size and financial condition of the bank, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the bank's ability to provide lending, investments, or services in its assessment area(s);
5. The bank's past performance and the performance of similarly situated lenders;
6. The bank's public file, as described in paragraph 43–Content and Availability of Public File, and any written comments about the bank's CRA performance submitted to the bank or the regulatory Agencies; and
7. Any other information deemed relevant by the regulatory Agencies.

Q: What is the performance context?

A: The performance context is a broad range of economic, demographic, and institution- and community-specific information that an examiner reviews to understand the context in which an institution's record of performance should be evaluated. The agencies will provide examiners with some of this information. The performance context is not a formal assessment of community credit needs.

Q: Will examiners consider performance context information provided by institutions?

A: Yes. An institution may provide examiners with any information it deems relevant, including information on the lending, investment, and service opportunities in its assessment area(s). This information may include data on the business opportunities addressed by lenders not subject to the CRA. Institutions are not required, however, to prepare a formal needs assessment. If an institution provides information to examiners, the agencies will not expect information other than what the institution normally would develop to prepare a business plan or to identify potential markets and customers, including low- and moderate-income persons and geographies in its assessment area(s). The agencies will not evaluate an institution's efforts to ascertain community credit needs or rate an institution on the quality of any information it provides.

Q: Will examiners conduct community contact interviews as part of the examination process?

A: Yes. Examiners will consider information obtained from interviews with local community, civic, and government leaders. These interviews provide examiners with knowledge regarding the local community, its economic base, and community development initiatives. To ensure that information from local leaders is considered—particularly in areas where the number of potential contacts may be limited—examiners may use information obtained through an interview with a single community contact for examinations of more than one institution in a given market. In addition, the agencies may consider information obtained from interviews conducted by other agency staff and by the other agencies. In order to augment contacts previously used by the agencies and foster a wider array of contacts, the agencies may share community contact information.

Q: Will examiners consider factors outside of an institution's control that prevent it from engaging in certain activities?

A: Yes. Examiners will take into account statutory and supervisory limitations on an institution's ability to engage in any lending, investment, and service activities. For example, a savings association that has made few or no qualified investments due to its limited investment authority may still receive a low satisfactory rating under the investment test if it has a strong lending record.

Q: Can an institution's assigned rating be adversely affected by poor past performance?

A: Yes. The agencies will consider an institution's past performance in its overall evaluation. For example, an institution that received a rating of "needs to improve" in the past may receive a rating of "substantial noncompliance" if its performance has not improved.

Q: How will examiners consider the performance of similarly situated lenders?

A: The performance context section of the regulation permits the performance of similarly situated lenders to be considered, for example, as one of a number of considerations in evaluating the geographic distribution of an institution's loans to low-, moderate-, middle-, and upper-income geographies. This analysis, as well as other analyses, may be used, for example, where groups of contiguous geographies within an institution's assessment area(s) exhibit abnormally low penetration. In this regard, the performance of similarly situated lenders may be analyzed if such an analysis would provide accurate insight into the institution's lack of performance in those areas. The regulation does not require the use of a specific type of analysis under these circumstances. Moreover, no ratio developed from any type of analysis is linked to any lending test rating.

Assigned Ratings

The regulatory Agencies will assign one of the following four ratings to a bank pursuant to paragraph 28–Assigned Ratings and Appendix A of the final rule as provided in 12 U.S.C. § 2906(b)(2):

- Outstanding
- Satisfactory
- Needs to Improve
- Substantial Noncompliance

The rating assigned by the regulatory Agencies reflects the bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank.

> "In assigning a rating, the regulatory Agencies will evaluate a bank's performance under the applicable performance criteria . . . which provides for adjustments on the basis of evidence of discriminatory or other illegal credit practices. [In addition,] a bank's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile."[8]

8 *Federal Register*, Vol. 60, No. 86, Thursday, May 4, 1995, p. 22169.

Safe and Sound Operations

CRA does not require a bank to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the regulatory Agencies anticipate that banks can meet the standards with safe and sound loans, investments, and services on which the banks expect to make a profit. Banks are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income geographies or individuals, only if consistent with safe and sound operations.

Low-cost Education Loans Provided to Low-income Borrowers

In assessing and taking into account the record of a bank, the Agencies consider, as a factor, low-cost education loans originated by the bank to borrowers, particularly in its assessment area(s), who have an individual income that is less than 50 percent of the area median income. "Low cost education loans" means any education loan, as defined in TILA, originated by the bank for a student at an institution of higher education, with interest rates and fees no greater than those of comparable education loans offered directly by the U.S. Department of Education. Such rates and fees are specified in section 455 of the Higher Education Act of 1965 (20 USC 1087e).

Activities in Cooperation with Minority- or Women-owned Financial Institutions and Low-income Credit Unions

In assessing and taking into account the record of a nonminority-owned and nonwomen-owned bank, the Agencies consider, as a factor, capital investment, loan participation, and other ventures undertaken by the bank in cooperation with minority-and women-owned financial institutions and low-income credit unions. Such activities must help meet the credit needs of local communities in which the minority- and women-owned financial institutions and low-income credit unions are chartered. To be considered, such activities need not also benefit the bank's assessment area(s) or the broader statewide or regional area that includes the bank's assessment area(s).

Q: The CRA provides that, in assessing the CRA performance of non-minority- and non-women-owned (majority-owned) financial institutions, examiners may consider as a factor capital investments, loan participations, and other ventures undertaken by the institutions in cooperation with minority- or women-owned financial institutions and low-income credit unions (MWLIs), provided that these activities help meet the credit needs of local communities in which the MWLIs are chartered. Must such activities also benefit the majority-owned financial institution's assessment area?

A: No. Although the regulations generally provide that an institution's CRA activities will be evaluated for the extent to which they benefit the institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s), the Agencies apply a broader geographic criterion when evaluating capital investments, loan participations, and other ventures undertaken by that institution in cooperation with MWLIs, as provided by the CRA. Thus, such activities will be favorably considered in the CRA performance evaluation of the institution (as loans, investments, or services, as appropriate), even if the MWLIs are not located in, or such activities do not benefit, the assessment area(s) of the majority-owned institution or the broader statewide or regional area that includes its assessment area(s). The activities must, however, help meet the credit needs of the local communities in which the MWLIs are chartered. The impact of a majority-owned institution's activities in cooperation with MWLIs on the majority-owned institution's CRA rating will be determined in conjunction with its overall performance in its assessment area(s).

Examples of activities undertaken by a majority-owned financial institution in cooperation with MWLIs that would receive CRA consideration may include:

- Making a deposit or capital investment;
- Purchasing a participation in a loan;
- Loaning an officer or providing other technical expertise to assist an MWLI in improving its lending policies and practices;
- Providing financial support to enable an MWLI to partner with schools or universities to offer financial literacy education to members of its local community; or
- Providing free or discounted data processing systems, or office facilities to aid an MWLI in serving its customers.

CRA Rating Matrix[9]

The large bank matrix that sets forth the methodology for aggregating an institution's scores on the lending, service, and investment tests to arrive at an assigned rating is shown in the following table:

Component Test Rating	Lending	Service	Investment
Outstanding	12	6	6
High Satisfactory	9	4	4
Low Satisfactory	6	3	3
Needs Improvement	3	1	1
Substantial Noncompliance	0	0	0

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9 *Federal Register,* Vol. 60, No. 86, Thursday, May 4, 1995, p. 22170.

CRA Composite Rating Matrix[10]

The number of points needed to achieve each of the four composite assigned ratings is shown in the following table.

Points	Composite Assigned Rating
20 and over	Outstanding
11 through 19	Satisfactory
5 through 10	Needs to Improve
0 though 4	Substantial Noncompliance

> "To ensure that an institution does not receive an assigned rating of 'Satisfactory' unless it receives a rating of at least 'Low Satisfactory' on the lending test, an institution's assigned rating will be calculated using three times the lending test score if the institution's point total exceeds three times the lending test score."[11]

10 *Federal Register*, Vol. 60, No. 86, Thursday, May 4, 1995, p. 22170.
11 *Federal Register*, Vol. 60, No. 86, Thursday, May 4, 1995, p. 22170.

Section 4: Lending Test[12]

Scope of Test

The lending test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering a bank's home mortgage, small business, small farm, and community development lending. If consumer lending constitutes a substantial majority of a bank's business, the regulatory Agencies will evaluate the bank's consumer lending in one or more of the following categories:

- Motor vehicle
- Credit card
- Home equity
- Other secured
- Other unsecured loans

In addition, at a bank's option, the regulatory Agencies will evaluate one or more categories of consumer lending, if the bank has collected and maintained the data for each category that the bank elects to have the regulatory Agencies evaluate, as required in paragraph 42(c)(1)–Data Collection, Reporting, and Disclosure.

Q: Are there any types of lending activities that help meet the credit needs of an institution's assessment area(s) and that may warrant favorable consideration as activities that are responsive to the needs of the institution's assessment area(s)?

A: Credit needs vary from community to community. However, there are some lending activities that are likely to be responsive in helping to meet the credit needs of many communities. These activities include:

- Providing loan programs that include a financial education component about how to avoid lending activities that may be abusive or otherwise unsuitable;
- Establishing loan programs that provide small, unsecured consumer loans in a safe and sound manner (i.e., based on the borrower's ability to repay) and with reasonable terms;
- Offering lending programs, which feature reporting to consumer reporting agencies, that transition borrowers from loans with higher interest rates and fees (based on credit risk) to lower-cost loans, consistent with safe and sound lending practices. Reporting to consumer reporting agencies allows borrowers accessing these programs the opportunity to improve their credit histories and thereby improve their access to competitive credit products;
- Establishing loan programs with the objective of providing affordable, sustainable, long-term relief, for example, through loan refinancings, restructures, or modifications, to homeowners who are facing foreclosure on their primary residences.

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12 12 C.F.R. § 25.22, 228.22, 345.22.

Examiners may consider favorably such lending activities, which have features augmenting the success and effectiveness of the small, intermediate small, or large institution's lending programs.

Q: If a large retail institution is not required to collect and report home mortgage data under the HMDA, will the agencies still evaluate the institution's home mortgage lending performance?

A: Yes. The agencies will sample the institution's home mortgage loan files in order to assess its performance under the lending test criteria.

Q: When will examiners consider consumer loans as part of an institution's CRA evaluation?

A: Consumer loans will be evaluated if the institution so elects and has collected and maintained the data; an institution that elects not to have its consumer loans evaluated will not be viewed less favorably by examiners than one that does. However, if consumer loans constitute a substantial majority of the institution's business, the agencies will evaluate them even if the institution does not so elect. The agencies interpret "substantial majority" to be so significant a portion of the institution's lending activity by number and dollar volume of loans that the lending test evaluation would not meaningfully reflect its lending performance if consumer loans were excluded.

Consideration of Originations and Purchases of Loans

The regulatory Agencies will also consider any other loan data the bank may choose to provide, including data on loans outstanding, commitments, and letters of credit.

Q: How are lending commitments (such as letters of credit) evaluated under the regulation?

A: The agencies consider lending commitments (such as letters of credit) only at the option of the institution, regardless of examination type. Commitments must be legally binding between an institution and a borrower in order to be considered. Information about lending commitments will be used by examiners to enhance their understanding of an institution's performance, but will be evaluated separately from the loans.

Q: Will examiners review application data as part of the lending test?

A: Application activity is not a performance criterion of the lending test. However, examiners may consider this information in the performance context analysis because this information may give examiners insight on, for example, the demand for loans.

Q: May a financial institution receive consideration under CRA for home mortgage loan modification, extension, and consolidation agreements (MECAs), in which it obtains home mortgage loans from other institutions without actually purchasing or refinancing the home mortgage loans, as those terms have been interpreted under CRA and HMDA, as implemented by 12 CFR part 1003?

A: Yes. In some states, MECAs, which are not considered loan refinancings because the existing loan obligations are not satisfied and replaced, are common. Although these transactions are not considered to be purchases or refinancings, as those terms have been interpreted under CRA, they do achieve the same results. A small, intermediate small, or large institution may present information about its MECA activities with respect to home mortgages to examiners for consideration under the lending test as “other loan data.”

Q: In addition to MECAs, what are other examples of “other loan data”?

A: Other loan data include, for example:

- Loans funded for sale to the secondary markets that an institution has not reported under HMDA;
- Unfunded loan commitments and letters of credit;
- Commercial and consumer leases;
- Loans secured by nonfarm residential real estate, not taken as an abundance of caution, that are used to finance small businesses or small farms and that are not reported as small business/small farm loans or reported under HMDA; and
- An increase to a small business or small farm line of credit if the increase would cause the total line of credit to exceed $1 million, in the case of a small business line, or $500,000, in the case of a small farm line.

Q: Do institutions receive consideration for originating or purchasing loans that are fully guaranteed?

A: Yes. For all examination types, examiners evaluate an institution’s record of helping to meet the credit needs of its assessment area(s) through the origination or purchase of specified types of loans. Examiners do not take into account whether or not such loans are guaranteed.

Q: Do institutions receive consideration for purchasing loan participations?

A: Yes. Examiners will consider the amount of loan participations purchased when evaluating an institution’s record of helping to meet the credit needs of its assessment area(s) through the origination or purchase of specified types of loans, regardless of examination type. As with other loan purchases, examiners will evaluate whether participations in loan purchased, which have been sold and purchased a number of times, artificially inflate CRA performance. See, e.g., §___.21(a)–1.

Q: How are refinancings of small business loans, which are secured by a one-to-four family residence and that have been reported under HMDA as a refinancing, evaluated under CRA?

A: For banks subject to the Call Report instructions: A loan of $1 million or less with a business purpose that is secured by a one-to-four family residence is considered a small business loan for CRA purposes only if the security interest in the residential property was taken as an abundance of caution and where the terms have not been made more favorable than they would have been in the absence of the lien. (See Call Report Glossary definition of “Loan Secured by Real Estate.”) If this same loan is refinanced and the new loan is also secured by a one-to-four family residence, but only through an abundance of caution, this loan is reported not only as a refinancing under HMDA, but also as a small business loan under CRA. (Note that small farm loans are similarly treated.)

It is not anticipated that "double-reported" loans will be so numerous as to affect the typical institution's CRA rating. In the event that an institution reports a significant number or amount of loans as both home mortgage and small business loans, examiners will consider that overlap in evaluating the institution's performance and generally will consider the "double-reported" loans as small business loans for CRA consideration.

The origination of a small business or small farm loan that is secured by a one-to-four family residence is not reportable under HMDA, unless the purpose of the loan is home purchase or home improvement. Nor is the loan reported as a small business or small farm loan if the security interest is not taken merely as an abundance of caution. Any such loan may be provided to examiners as "other loan data" ("Other Secured Lines/Loans for Purposes of Small Business") for consideration during a CRA evaluation. See Q&A §___.12(v)–3. The refinancings of such loans *would be* reported under HMDA.

The origination of a small business or small farm loan that is secured by a one-to-four family residence should be reported in accordance with Q&A §___.12(v)–3. The refinancings of such loans *would be* reported under HMDA.

Consortia and Third-Party Loan Consideration

A bank may ask the regulatory Agencies to consider loans originated or purchased by consortia in which the bank participates or by third-parties in which the bank has invested only if the loans meet the definition of community development loans and only in accordance with below-listed rules for lending by a consortium or a third-party.[13] The regulatory Agencies will not consider these loans under any criterion of the lending test except the community development lending criteria.

Performance Criteria

The regulatory Agencies will evaluate a bank's lending performance pursuant to the following criteria:

1. ***Lending activity.*** The number and amount of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, in the bank's assessment area(s)
2. ***Geographic distribution.*** The geographic distribution of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on the loan location, including:
    a. The proportion of the bank's lending in the bank's assessment area(s);
    b. The dispersion of lending in the bank's assessment area(s); and
    c. The number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the bank's assessment area(s).

13 See paragraph (d) of section 22 of the regulation.

3. ***Borrower characteristics.*** The distribution, particularly in the bank's assessment area(s), of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on borrower characteristics, including the number and amount of
   a. Home mortgage loans to low-, moderate-, middle-, and upper-income individuals;
   b. Small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;
   c. Small business and small farm loans by loan amount at origination; and
   d. Consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals.
4. ***Community development lending.*** The bank's community development lending, including the number and amount of community development loans and their complexity and innovativeness.
5. ***Innovative or flexible lending practices.*** The bank's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies.

Q: How will the agencies apply the lending activity criterion to discourage an institution from originating loans that are viewed favorably under CRA in the institution itself and referring other loans, which are not viewed as favorably, for origination by an affiliate?

A: Examiners will review closely institutions with (1) a small number and amount of home mortgage loans with an unusually good distribution among low-and moderate-income areas and low-and moderate-income borrowers and (2) a policy of referring most, but not all, of their home mortgage loans to affiliated institutions. If an institution is making loans mostly to low- and moderate-income individuals and areas and referring the rest of the loan applicants to an affiliate for the purpose of receiving a favorable CRA rating, examiners may conclude that the institution's lending activity is not satisfactory because it has inappropriately attempted to influence the rating. In evaluating an institution's lending, examiners will consider legitimate business reasons for the allocation of the lending activity.

Q: How do the geographic distribution of loans and the distribution of lending by borrower characteristics interact in the lending test applicable to either large or small institutions?

A: Examiners generally will consider both the distribution of an institution's loans among geographies of different income levels, and among borrowers of different income levels and businesses and farms of different sizes. The importance of the borrower distribution criterion, particularly in relation to the geographic distribution criterion, will depend on the performance context. For example, distribution among borrowers with different income levels may be more important in areas without identifiable geographies of different income categories. On the other hand, geographic distribution may be more important in areas with the full range of geographies of different income categories.

Q: Must an institution lend to all portions of its assessment area?

A: The term "assessment area" describes the geographic area within which the agencies assess how well an institution, regardless of examination type, has met the specific performance tests and standards in the rule. The agencies do not expect that simply because a census tract is within an institution's assessment area(s), the institution must lend to that census tract. Rather the agencies will be concerned with conspicuous gaps in loan distribution that are not explained by the performance context. Similarly, if an institution delineated the entire county in which it is located as its assessment area, but could have delineated its assessment area as only a portion of the county, it will not be penalized for lending only in that portion of the county, so long as that portion does not reflect illegal discrimination or arbitrarily exclude low- or moderate-income geographies. The capacity and constraints of an institution, its business decisions about how it can best help to meet the needs of its assessment area(s), including those of low- and moderate-income neighborhoods, and other aspects of the performance context, are all relevant to explain why the institution is serving or not serving portions of its assessment area(s).

Q: Will examiners take into account loans made by affiliates when evaluating the proportion of an institution's lending in its assessment area(s)?

A: Examiners will not take into account loans made by affiliates when determining the proportion of an institution's lending in its assessment area(s), even if the institution elects to have its affiliate lending considered in the remainder of the lending test evaluation. However, examiners may consider an institution's business strategy of conducting lending through an affiliate in order to determine whether a low proportion of lending in the assessment area(s) should adversely affect the institution's lending test rating.

Q: When will examiners consider loans (other than community development loans) made outside an institution's assessment area(s)?

A: Consideration will be given for loans to low- and moderate-income persons and small business and farm loans outside of an institution's assessment area(s), provided the institution has adequately addressed the needs of borrowers within its assessment area(s). The agencies will apply this consideration not only to loans made by large retail institutions being evaluated under the lending test, but also to loans made by small and intermediate small institutions being evaluated under their respective performance standards. Loans to low-and moderate-income persons and small businesses and farms outside of an institution's assessment area(s), however, will not compensate for poor lending performance within the institution's assessment area(s).

Q: Under the lending test applicable to small, intermediate small, or large institutions, how will examiners evaluate home mortgage loans to middle- or upper income individuals in a low- or moderate-income geography?

A: Examiners will consider these home mortgage loans under the performance criteria of the lending test, i.e., by number and amount of home mortgage loans, whether they are inside or outside the financial institution's assessment area(s), their geographic distribution, and the income levels of the borrowers. Examiners will use information regarding the financial institution's performance context to determine how to evaluate the loans under these performance criteria. Depending on the performance context, examiners could view home mortgage loans to middle-income individuals in a low-income geography very differently. For example, if the loans are for homes or multifamily housing located in an area for which the local, state, tribal, or Federal government or a community based development organization has developed a revitalization or stabilization plan (such as a Federal enterprise community or empowerment zone) that includes attracting mixed income residents to establish a stabilized, economically diverse neighborhood, examiners may give more consideration to such loans, which may be viewed as serving the low- or moderate-income community's needs as well as serving those of the middle- or upper-income borrowers. If, on the other hand, no such plan exists and there is no other evidence of governmental support for a revitalization or stabilization project in the area and the loans to middle- or upper-income borrowers significantly disadvantage or primarily have the effect of displacing low- or moderate-income residents, examiners may view these loans simply as home mortgage loans to middle- or upper-income borrowers who happen to reside in a low- or moderate-income geography and weigh them accordingly in their evaluation of the institution.

Q: When evaluating an institution's record of community development lending under the lending test applicable to large institutions, may an examiner distinguish among community development loans on the basis of the actual amount of the loan that advances the community development purpose?

A: Yes. When evaluating the institution's record of community development lending under 12 CFR ____.22(b)(4), it is appropriate to give greater weight to the amount of the loan that is targeted to the intended community development purpose. For example, consider two $10 million projects (with a total of 100 units each) that have as their express primary purpose affordable housing and are located in the same community. One of these projects sets aside 40 percent of its units for low-income residents and the other project allocates 65 percent of its units for low-income residents. An institution would report both loans as $10 million community development loans under the 12 CFR ___.42(b)(2) aggregate reporting obligation. However, transaction complexity, innovation and all other relevant considerations being equal, an examiner should also take into account that the 65 percent project provides more affordable housing for more people per dollar expended.

Under 12 CFR ___.22(b)(4), the extent of CRA consideration an institution receives for its community development loans should bear a direct relation to the benefits received by the community and the innovation or complexity of the loans required to accomplish the activity, not simply to the dollar amount expended on a particular transaction. By applying all lending test performance criteria, a community development loan of a lower dollar amount could meet the credit needs of the institution's community to a greater extent than a community development loan with a higher dollar amount, but with less innovation, complexity, or impact on the community.

Q: How do examiners consider community development loans in the evaluation of an institution's record of lending under the lending test applicable to large institutions?

A. An institution's record of making community development loans may have a positive, neutral, or negative impact on the lending test rating. Community development lending is one of five performance criteria in the lending test criteria and, as such, it is considered at every examination. As with all lending test criteria, examiners evaluate an institution's record of making community development loans in the context of an institution's business model, the needs of its community, and the availability of community development opportunities in its assessment area(s) or the broader statewide or regional area(s) that includes the assessment area(s). For example, in some cases community development lending could have either a neutral or negative impact when the volume and number of community development loans are not adequate, depending on the performance context, while in other cases, it would have a positive impact when the institution is a leader in community development lending. Additionally, strong performance in retail lending may compensate for weak performance in community development lending, and conversely, strong community development lending may compensate for weak retail lending performance.

Q: What is the range of practices that examiners may consider in evaluating the innovativeness or flexibility of an institution's lending under the lending test applicable to large institutions?

A: In evaluating the innovativeness or flexibility of an institution's lending practices (and the complexity and innovativeness of its community development lending), examiners will not be limited to reviewing the overall variety and specific terms and conditions of the credit products themselves. In connection with the evaluation of an institution's lending, examiners also may give consideration to related innovations when they augment the success and effectiveness of the institution's lending under its community development loan programs or, more generally, its lending under its loan programs that address the credit needs of low- and moderate-income geographies or individuals. For example:

- In connection with a community development loan program, an institution may establish a technical assistance program under which the institution, directly or through third parties, provides affordable housing developers and other loan recipients with financial consulting services. Such a technical assistance program may, by itself, constitute a community development service eligible for consideration under the service test of the CRA regulations. In addition, the technical assistance may be favorably considered as an innovation that augments the success and effectiveness of the related community development loan program.
- In connection with a small business lending program in a low- or moderate-income area and consistent with safe and sound lending practices, an institution may implement a program under which, in addition to providing financing, the institution also contracts with the small business borrowers. Such a contracting arrangement would not, standing alone, qualify for CRA consideration. However, it may be favorably considered as an innovation that augments the loan program's success and effectiveness, and improves the program's ability to serve community development purposes by helping to promote economic development through support of small business activities and revitalization or stabilization of low- or moderate-income geographies.

Affiliate Lending

At a bank's option, the regulatory Agencies will consider loans by an affiliate of the bank, if the bank provides data on the affiliate's loans pursuant to paragraph 42–Data Collection, Reporting, and Disclosure.

The regulatory Agencies will consider affiliate lending subject to the following constraints:

1. No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase.
2. If a bank elects to have the regulatory Agencies consider loans within a particular lending category made by one or more of the bank's affiliates in a particular assessment area, the bank shall elect to have the regulatory Agencies consider all the loans within that lending category in that particular assessment area made by all of the bank's affiliates.

The regulatory Agencies will not consider affiliate lending in assessing a bank's performance according to geographic distribution for the proportion of the bank's lending in the bank's assessment area.[14]

Q: If an institution, regardless of examination type, elects to have loans by its affiliate(s) considered, may it elect to have only certain categories of loans considered?

A: Yes. An institution may elect to have only a particular category of its affiliate's lending considered. The basic categories of loans are home mortgage loans, small business loans, small farm loans, community development loans, and the five categories of consumer loans (motor vehicle loans, credit card loans, home equity loans, other secured loans, and other unsecured loans).

Q: Regardless of examination type, how is this constraint on affiliate lending applied?

A: This constraint prohibits one affiliate from claiming a loan origination or purchase claimed by another affiliate. However, an institution can count as a purchase a loan originated by an affiliate that the institution subsequently purchases, or count as an origination a loan later sold to an affiliate, provided the same loans are not sold several times to inflate their value for CRA purposes. For example, assume that two institutions are affiliated. Bank A originates a loan and claims it as a loan origination. Bank B later purchases the loan. Bank B may count the loan as a purchased loan.

The same institution may not count both the origination and purchase. Thus, for example, if an institution claims loans made by an affiliated mortgage company as loan originations, the institution may not also count the loans as purchased loans if it later purchases the loans from its affiliate. See also Q&As §___.22(c)(2)(ii)–1 and §___.22(c)(2)(ii)–2.

Q: Regardless of examination type, how is this constraint on affiliate lending applied?

A: This constraint prohibits "cherry-picking" affiliate loans within any one category of loans. The constraint requires an institution that elects to have a particular category of affiliate lending in a particular assessment area considered to include all loans of that type made by all of its affiliates in that particular assessment area. For example, assume that an institution has several affiliates, including a mortgage company that makes loans in the institution's assessment area. If the institution elects to include the mortgage company's home mortgage loans, it must include all of its affiliates' home mortgage loans made in its assessment area. In addition, the institution cannot elect to include only those low- and moderate-income home mortgage loans made by its affiliates and not home mortgage loans to middle- and upper-income individuals or areas.

Q: Regardless of examination type, how is this constraint applied if an institution's affiliates are also insured depository institutions subject to the CRA?

A: Strict application of this constraint against "cherry-picking" to loans of an affiliate that is also an insured depository institution covered by the CRA would produce the anomalous result that the other institution would, without its consent, not be able to count its own loans. Because the

14 See paragraph 22(b)(2)(i).

agencies did not intend to deprive an institution subject to the CRA of receiving consideration for its own lending, the agencies read this constraint slightly differently in cases involving a group of affiliated institutions, some of which are subject to the CRA and share the same assessment area(s). In those circumstances, an institution that elects to include all of its mortgage affiliate's home mortgage loans in its assessment area would not automatically be required to include all home mortgage loans in its assessment area of another affiliate institution subject to the CRA. However, all loans of a particular type made by any affiliate in the institution's assessment area(s) must either be counted by the lending institution or by another affiliate institution that is subject to the CRA. This reading reflects the fact that a holding company may, for business reasons, choose to transact different aspects of its business in different subsidiary institutions. However, the method by which loans are allocated among the institutions for CRA purposes must reflect actual business decisions about the allocation of banking activities among the institutions and should not be designed solely to enhance their CRA evaluations.

Lending by a Consortium or a Third-Party

Community development loans originated or purchased by a consortium in which the bank participates or by a third-party in which the bank has invested:

1. Will be considered, at the bank's option, if the bank reports the data pertaining to these loans under paragraph 42(b)(2)–Data Collection, Reporting, and Disclosure, and
2. May be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor:
    a. May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase, or
    b. May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third-party.

Q: Will equity and equity-type investments in a third party receive consideration under the lending test?

A: If an institution has made an equity or equity-type investment in a third party, community development loans made by the third party may be considered under the lending test. On the other hand, asset-backed and debt securities that do not represent an equity-type interest in a third party will not be considered under the lending test unless the securities are booked by the purchasing institution as a loan. For example, if an institution purchases stock in a community development corporation ("CDC") that primarily lends in low- and moderate-income areas or to low- and moderate-income individuals in order to promote community development, the institution may claim a pro rata share of the CDC's loans as community development loans. The institution's pro rata share is based on its percentage of equity ownership in the CDC. Q&A §___.23(b)–1 provides information concerning consideration of an equity or equity-type investment under the investment test and both the lending and investment tests. (Note that in connection with an intermediate small institution's CRA performance evaluation, community development loans, including pro-rata shares of community development loans, are considered only in the community development test.)

Q: Regardless of examination type, how will examiners evaluate loans made by consortia or third parties?

A: Loans originated or purchased by consortia in which an institution participates or by third parties in which an institution invests will be considered only if they qualify as community development loans and will be considered only under the community development criterion. However, loans originated directly on the books of an institution or purchased by the institution are considered to have been made or purchased directly by the institution, even if the institution originated or purchased the loans as a result of its participation in a loan consortium. These loans would be considered under the lending test or community development test criteria appropriate to them depending on the type of loan and type of examination.

Q: In some circumstances, an institution may invest in a third party, such as a community development bank, that is also an insured depository institution and is thus subject to CRA requirements. If the investing institution requests its supervisory agency to consider its pro rata share of community development loans made by the third party, as allowed under 12 CFR ___.22(d), may the third party also receive consideration for these loans?

A: Yes, regardless of examination type, as long as the financial institution and the third party are not affiliates. The regulations state, at 12 CFR ___.22(c)(2)(i), that two affiliates may not both claim the same loan origination or loan purchase. However, if the financial institution and the third party are not affiliates, the third party may receive consideration for the community development loans it originates, and the financial institution that invested in the third party may also receive consideration for its pro rata share of the same community development loans under 12 CFR ___.22(d).

Lending Performance Rating

The regulatory Agencies will assign each bank's lending performance one of the five following ratings:

Outstanding. The regulatory Agencies rate a bank's lending performance "Outstanding" if, in general, it demonstrates:

1. Excellent responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);
2. A substantial majority of its loans are made in its assessment area(s);
3. An excellent geographic distribution of loans in its assessment area(s);
4. An excellent distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;
5. An excellent record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;
6. Extensive use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

7. It is a leader in making community development loans.

High Satisfactory. The regulatory Agencies rate a bank's lending performance "High Satisfactory" if, in general, it demonstrates:

1. Good responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);
2. A high percentage of its loans are made in its assessment area(s);
3. A good geographic distribution of loans in its assessment area(s);
4. A good distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;
5. A good record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;
6. Use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and
7. It has made a relatively high level of community development loans.

Low Satisfactory. The regulatory Agencies rate a bank's lending performance "Low Satisfactory" if, in general, it demonstrates:

1. Adequate responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);
2. An adequate percentage of its loans are made in its assessment area(s);
3. An adequate geographic distribution of loans in its assessment area(s);
4. An adequate distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;
5. An adequate record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;
6. Limited use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and
7. It has made an adequate level of community development loans.

Needs to Improve. The regulatory Agencies rate a bank's lending performance "Needs to Improve" if, in general, it demonstrates:

1. Poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);
2. A small percentage of its loans are made in its assessment area(s);
3. A poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

4. A poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;
5. A poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;
6. Little use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and
7. It has made a low level of community development loans.

Substantial Noncompliance. The regulatory Agencies rate a bank's lending performance as being in "Substantial Noncompliance" if, in general, it demonstrates:

1. A very poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);
2. A very small percentage of its loans are made in its assessment area(s);
3. A very poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);
4. A very poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;
5. A very poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of $1 million or less, consistent with safe and sound operations;
6. No use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and
7. It has made few, if any, community development loans.

Section 5: Investment Test[15]

Scope of Test

The investment test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through qualified investments that benefit its assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

Q: May an institution, regardless of examination type, receive consideration under the CRA regulations if it invests indirectly through a fund, the purpose of which is community development, as that is defined in the CRA regulations?

A: Yes, the direct or indirect nature of the qualified investment does not affect whether an institution will receive consideration under the CRA regulations because the regulations do not distinguish between "direct" and "indirect" investments. Thus, an institution's investment in an equity fund that, in turn, invests in projects that, for example, provide affordable housing to low- and moderate-income individuals, would receive consideration as a qualified investment under the CRA regulations, provided the investment benefits one or more of the institution's assessment area(s) or a broader statewide or regional area(s) that includes one or more of the institution's assessment area(s). Similarly, an institution may receive consideration for a direct qualified investment in a nonprofit organization that, for example, supports affordable housing for low- and moderate-income individuals in the institution's assessment area(s) or a broader statewide or regional area(s) that includes the institution's assessment area(s).

Q: In order to receive CRA consideration, what information may an institution provide that would demonstrate that an investment in a nationwide fund with a primary purpose of community development will directly or indirectly benefit one or more of the institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s)?

A: There are several ways to demonstrate that the institution's investment in a nationwide fund meets the geographic requirements, and the Agencies will employ appropriate flexibility in this regard in reviewing information the institution provides that reasonably supports this determination.

In making this determination, the Agencies will consider any information provided by a financial institution that reasonably demonstrates that the purpose, mandate, or function of the fund includes serving geographies or individuals located within the institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s). Typically, information about where a fund's investments are expected to be made or targeted will be found in the fund's prospectus, or other documents provided by the fund prior to or at the time of the institution's investment, and the institution, at its option, may provide such documentation in connection with its CRA evaluation.

Nationwide funds are important sources of investments in low- and moderate-income and underserved communities throughout the country and can be an efficient vehicle for institutions

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15 12 C.F.R. § 25.23, 228.23, 345.23.

in making qualified investments that help meet community development needs. Nationwide funds may be suitable investment opportunities, particularly for large financial institutions with a nationwide branch footprint. Other financial institutions, including those with a nationwide business focus, may find such funds to be efficient investment vehicles to help meet community development needs in their assessment area(s) or the broader statewide or regional area that includes their assessment area(s). Prior to investing in such a fund, an institution should consider reviewing the fund's investment record to see if it is generally consistent with the institution's investment goals and the geographic considerations in the regulations. Examiners will consider investments in nationwide funds that benefit the institution's assessment area(s). Examiners will also consider investments in nationwide funds that benefit the broader statewide or regional area that includes the institution's assessment area(s) consistent with the treatment detailed in Q&A §___.12(h)–6.

Exclusion

Activities considered under the lending or service tests may not be considered under the investment test.

Q: Even though the regulations state that an activity that is considered under the lending or service tests cannot also be considered under the investment test, may parts of an activity be considered under one test and other parts be considered under another test?

A: Yes, in some instances the nature of an activity may make it eligible for consideration under more than one of the performance tests. For example, certain investments and related support provided by a large retail institution to a CDC may be evaluated under the lending, investment, and service tests. Under the service test, the institution may receive consideration for any community development services that it provides to the CDC, such as service by an executive of the institution on the CDC's board of directors. If the institution makes an investment in the CDC that the CDC uses to make community development loans, the institution may receive consideration under the lending test for its pro-rata share of community development loans made by the CDC. Alternatively, the institution's investment may be considered under the investment test, assuming it is a qualified investment. In addition, an institution may elect to have a part of its investment considered under the lending test and the remaining part considered under the investment test. If the investing institution opts to have a portion of its investment evaluated under the lending test by claiming its pro rata share of the CDC's community development loans, the amount of investment considered under the investment test will be offset by that portion. Thus, the institution would receive consideration under the investment test for only the amount of its investment multiplied by the percentage of the CDC's assets that meet the definition of a qualified investment.

Q: If home mortgage loans to low- and moderate-income borrowers have been considered under an institution's lending test, may the institution that originated or purchased them also receive consideration under the investment test if it subsequently purchases mortgage-backed securities that are primarily or exclusively backed by such loans?

A: No. Because the institution received lending test consideration for the loans that underlie the securities, the institution may not also receive consideration under the investment test for its purchase of the securities. Of course, an institution may receive investment test consideration for purchases of mortgage-backed securities that are backed by loans to low- and moderate-income individuals as long as the securities are not backed primarily or exclusively by loans that the same institution originated or purchased.

Affiliate Investment

At a bank's option, the regulatory Agencies will consider, in their assessment of a bank's investment performance, a qualified investment made by an affiliate of the bank, if the qualified investment is not claimed by any other institution.

Disposition of Branch Premises

Donating, selling on favorable terms, or making available on a rent-free basis a branch of the bank that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. § 2907(b)) will be considered as a qualified investment.

Performance Criteria

The regulatory Agencies evaluate the investment performance of a bank pursuant to the following criteria:

1. The dollar amount of qualified investments,
2. The innovativeness or complexity of qualified investments,
3. The responsiveness of qualified investments to credit and community development needs,
4. The degree to which the qualified investments are not routinely provided by private investors.

Q: When applying the four performance criteria of 12 CFR ___.23(e), may an examiner distinguish among qualified investments based on how much of the investment actually supports the underlying community development purpose?

A: Yes. By applying all the criteria, a qualified investment of a lower dollar amount may be weighed more heavily under the investment test than a qualified investment with a higher dollar amount that has fewer qualitative enhancements. The criteria permit an examiner to qualitatively weight certain investments differently or to make other appropriate distinctions when evaluating an institution's record of making qualified investments. For instance, an examiner should take into account that a targeted mortgage-backed security that qualifies as an affordable housing issue that has only 60 percent of its face value supported by loans to low- or moderate-income borrowers would not provide as much affordable housing for low- and moderate-income individuals as a targeted mortgage-backed security with 100 percent of its face value supported by affordable housing loans to low- and moderate-income borrowers. The examiner should describe any differential weighting (or other adjustment), and its basis in the Performance Evaluation. See also Q&A §___.12(t)–8 for a discussion about the qualitative consideration of prior period investments.

Q: How do examiners evaluate an institution's qualified investment in a fund, the primary purpose of which is community development, as defined in the CRA regulations?

A: When evaluating qualified investments that benefit an institution's assessment area(s) or a broader statewide or regional area that includes its assessment area(s), examiners will look at the following four performance criteria:

- The dollar amount of qualified investments;
- The innovativeness or complexity of qualified investments;
- The responsiveness of qualified investments to credit and community development needs; and
- The degree to which the qualified investments are not routinely provided by private investors.

With respect to the first criterion, examiners will determine the dollar amount of qualified investments by relying on the figures recorded by the institution according to generally accepted accounting principles (GAAP). Although institutions may exercise a range of investment strategies, including short-term investments, long-term investments, investments that are immediately funded, and investments with a binding, up-front commitment that are funded over a period of time, institutions making the same dollar amount of investments over the same number of years, all other performance criteria being equal, would receive the same level of consideration. Examiners will include both new and outstanding investments in this determination. The dollar amount of qualified investments also will include the dollar amount of legally binding commitments recorded by the institution according to GAAP.

The extent to which qualified investments receive consideration, however, depends on how examiners evaluate the investments under the remaining three performance criteria—innovativeness and complexity, responsiveness, and degree to which the investment is not routinely provided by private investors. Examiners also will consider factors relevant to the institution's CRA performance context, such as the effect of outstanding long-term qualified investments, the pay-in schedule, and the amount of any cash call, on the capacity of the institution to make new investments.

Investment Performance Rating

The regulatory Agencies will assign each bank's investment performance one of the five following ratings:

Outstanding. The regulatory Agencies rate a bank's investment performance "Outstanding" if, in general, it demonstrates:

1. An excellent level of qualified investments, particularly those that are not routinely provided by private investors, often in a leadership position;
2. Extensive use of innovative or complex qualified investments; and
3. Excellent responsiveness to credit and community development needs.

High Satisfactory. The regulatory Agencies rate a bank's investment performance "High Satisfactory" if, in general, it demonstrates:

1. A significant level of qualified investments, particularly those that are not routinely provided by private investors, occasionally in a leadership position;
2. Significant use of innovative or complex qualified investments; and
3. Good responsiveness to credit and community development needs.

Low Satisfactory. The regulatory Agencies rate a bank's investment performance "Low Satisfactory" if, in general, it demonstrates:

1. An adequate level of qualified investments, particularly those that are not routinely provided by private investors, although rarely in a leadership position;
2. Occasional use of innovative or complex qualified investments; and
3. Adequate responsiveness to credit and community development needs.

Needs to Improve. The regulatory Agencies rate a bank's investment performance "Needs to Improve" if, in general, it demonstrates:

1. A poor level of qualified investments, particularly those that are not routinely provided by private investors;
2. Rare use of innovative or complex qualified investments; and
3. Poor responsiveness to credit and community development needs.

Substantial Noncompliance. The regulatory Agencies rate a bank's investment performance as being in "Substantial Noncompliance" if, in general, it demonstrates:

1. Few, if any, qualified investments, particularly those that are not routinely provided by private investors;
2. No use of innovative or complex qualified investments; and
3. Very poor responsiveness to credit and community development needs.

Section 6: Service Test[16]

Scope of Test

The service test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) by analyzing both the availability and effectiveness of a bank's systems for delivering retail banking services and the extent and innovativeness of its community development services.

Area(s) Benefited

Community development services must benefit a bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

Affiliate Service

At a bank's option, the regulatory Agencies will consider, in their assessment of a bank's service performance, a community development service provided by an affiliate of the bank, if the community development service is not claimed by any other institution.

Performance Criteria – Retail Banking Services

The regulatory Agencies will evaluate the availability and effectiveness of a bank's systems for delivering retail banking services, pursuant to the following criteria:

1. The current distribution of the bank's branches among low-, moderate-, middle-, and upper-income geographies;
2. In the context of its current distribution of the bank's branches, the bank's record of opening and closing branches, particularly branches located in low- or moderate-income geographies or primarily serving low- or moderate-income individuals;
3. The availability and effectiveness of alternative systems for delivering retail banking services (e.g., ATMs, ATMs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income geographies and to low- and moderate-income individuals;
4. The range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies.

Q: How do examiners evaluate the availability and effectiveness of an institution's systems for delivering retail banking services?

A: Convenient access to full service branches within a community is an important factor in determining the availability of credit and non-credit services. Therefore, the service test

16 12 C.F.R. § 25.24, 228.24, 345.24.

performance standards place primary emphasis on full service branches while still considering alternative systems, such as automated teller machines ("ATMs"). The principal focus is on an institution's current distribution of branches and its record of opening and closing branches, particularly branches located in low- or moderate-income geographies or primarily serving low- or moderate-income individuals. However, an institution is not required to expand its branch network or operate unprofitable branches. Under the service test, alternative systems for delivering retail banking services, such as ATMs, are considered only to the extent that they are effective alternatives in providing needed services to low-and moderate-income areas and individuals.

Q: How do examiners evaluate an institution's activities in connection with Individual Development Accounts (IDAs)?

A: Although there is no standard IDA program, IDAs typically are deposit accounts targeted to low- and moderate-income families that are designed to help them accumulate savings for education or job-training, down-payment and closing costs on a new home, or start-up capital for a small business. Once participants have successfully funded an IDA, their personal IDA savings are matched by a public or private entity. Financial institution participation in IDA programs comes in a variety of forms, including providing retail banking services to IDA account holders, providing matching dollars or operating funds to an IDA program, designing or implementing IDA programs, providing consumer financial education to IDA account holders or prospective account holders, or other means. The extent of financial institutions' involvement in IDAs and the products and services they offer in connection with the accounts will vary. Thus, subject to 12 CFR ___.23(b), examiners evaluate the actual services and products provided by an institution in connection with IDA programs as one or more of the following: community development services, retail banking services, qualified investments, home mortgage loans, small business loans, consumer loans, or community development loans. See, e.g., Q&A §___.12(i)–3.

Note that all types of institutions may participate in IDA programs. Their IDA activities are evaluated under the performance criteria of the type of examination applicable to the particular institution.

Q: How will examiners evaluate alternative systems for delivering retail banking services?

A: The regulation recognizes the multitude of ways in which an institution can provide services, for example, ATMs, banking by telephone or computer, and bank-by-mail programs. Delivery systems other than branches will be considered under the regulation to the extent that they are effective alternatives to branches in providing needed services to low- and moderate-income areas and individuals. The list of systems in the regulation is not intended to be comprehensive.

Q: Are debit cards considered under the service test as an alternative delivery system?

A: By themselves, no. However, if debit cards are a part of a larger combination of products, such as a comprehensive electronic banking service, that allows an institution to deliver needed services to low- and moderate-income areas and individuals in its community, the overall delivery system that includes the debit card feature would be considered an alternative delivery system.

Performance Criteria – Community Development Services

The regulatory Agencies will evaluate community development services pursuant to the following criteria:

1. The extent to which the bank provides community development services, and
2. The innovativeness and responsiveness of community development services.

Q: Under what conditions may an institution receive consideration for community development services offered by affiliates or third parties?

A: At an institution's option, the agencies will consider services performed by an affiliate or by a third party on the institution's behalf under the service test if the services provided enable the institution to help meet the credit needs of its community. Indirect services that enhance an institution's ability to deliver credit products or deposit services within its community and that can be quantified may be considered under the service test, if those services have not been considered already under the lending or investment test (see Q&A §___.23(b)–1). For example, an institution that contracts with a community organization to provide home ownership counseling to low- and moderate-income home buyers as part of the institution's mortgage program may receive consideration for that indirect service under the service test. In contrast, donations to a community organization that offers financial services to low- or moderate-income individuals may be considered under the investment test, but would not also be eligible for consideration under the service test. Services performed by an affiliate will be treated the same as affiliate loans and investments made in the institution's assessment area and may be considered if the service is not claimed by any other institution. See 12 CFR ___.22(c) and ___.23(c).

Service Performance Rating

The regulatory Agencies will assign each bank's service performance one of the five following ratings:

Outstanding. The regulatory Agencies rate a bank's service performance "Outstanding" if, in general, the bank demonstrates:

1. Its service delivery systems are readily accessible to geographies and individuals of different income levels in its assessment area(s);
2. To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;
3. Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and
4. It is a leader in providing community development services.

High Satisfactory. The regulatory Agencies rate a bank's service performance "High Satisfactory" if, in general, the bank demonstrates:

1. Its service delivery systems are accessible to geographies and individuals of different income levels in its assessment area(s);
2. To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;
3. Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and
4. It provides a relatively high level of community development services.

Low Satisfactory. The regulatory Agencies rate a bank's service performance "Low Satisfactory" if, in general, the bank demonstrates:

1. Its service delivery systems are reasonably accessible to geographies and individuals of different income levels in its assessment area(s);
2. To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;
3. Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and
4. It provides an adequate level of community development services.

Needs to Improve. The regulatory Agencies rate a bank's service performance "Needs to Improve" if, in general, the bank demonstrates:

1. Its service delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;
2. To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;
3. Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and
4. It provides a limited level of community development services.

Substantial Noncompliance. The regulatory Agencies rate a bank's service performance as being in "Substantial Noncompliance" if, in general, the bank demonstrates:

1. Its service delivery systems are unreasonably inaccessible to significant portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

2. To the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;
3. Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and
4. It provides few, if any, community development services.

Section 7: Community Development Test for Wholesale or Limited-Purpose Banks[17]

Scope of Test

The regulatory Agencies assess a wholesale or limited-purpose bank's record of helping to meet the credit needs of its assessment area(s) under the community development test through its community development lending, qualified investments, or community development services.

Q: How can certain credit card banks help to meet the credit needs of their communities without losing their exemption from the definition of "bank" in the Bank Holding Company Act (the BHCA), as amended by the Competitive Equality Banking Act of 1987 (CEBA)?

A: Although the BHCA restricts institutions known as CEBA credit card banks to credit card operations, a CEBA credit card bank can engage in community development activities without losing its exemption under the BHCA. A CEBA credit card bank could provide community development services and investments without engaging in operations other than credit card operations. For example, the bank could provide credit card counseling, or the financial expertise of its executives, free of charge, to community development organizations. In addition, a CEBA credit card bank could make qualified investments, as long as the investments meet the guidelines for passive and non-controlling investments provided in the BHC Act and the Board's Regulation Y. Finally, although a CEBA credit card bank cannot make any loans other than credit card loans, under 12 CFR ___.25(d)(2) (community development test—indirect activities), the bank could elect to have part of its qualified passive and noncontrolling investments in a third-party lending consortium considered as community development lending, provided that the consortium's loans otherwise meet the requirements for community development lending. When assessing a CEBA credit card bank's CRA performance under the community development test, examiners will take into account the bank's performance context. In particular, examiners will consider the legal constraints imposed by the BHCA on the bank's activities, as part of the bank's performance context in 12 CFR ___.21(b)(4).

Designation as a Wholesale or Limited-Purpose Bank

In order to receive a designation as a wholesale or limited-purpose bank, a bank shall file a request, in writing, with the regulatory Agencies, at least three months prior to the proposed effective date of the designation. If the regulatory Agencies approve the designation, it remains in effect until the bank requests revocation of the designation or until one year after the regulatory Agencies notify the bank that the regulatory Agencies have revoked the designation on their own initiative.

17 12 C.F.R. § 25.25, 228.25, 345.25.

Performance Criteria

The regulatory Agencies evaluate the community development performance of a wholesale or limited-purpose bank pursuant to the following criteria:

1. The number and amount of community development loans (including originations and purchases of loans and other community development loan data provided by the bank, such as data on loans outstanding, commitments, and letters of credit), qualified investments, or community development services;
2. The use of innovative or complex qualified investments, community development loans, or community development services and the extent to which the investments are not routinely provided by private investors;
3. The bank's responsiveness to credit and community development needs.

Indirect Activities

At a bank's option, the regulatory Agencies will consider in a community development performance assessment:

1. Qualified investments or community development services provided by an affiliate of the bank, if the investments or services are not claimed by any other institution;
2. Community development lending by affiliates, consortia, and third-parties, subject to the requirements and limitations in the lending tests under paragraph 22(c) and (d).

Q: ***How are investments in third party community development organizations considered under the community development test?***

A: Similar to the lending test for retail institutions, investments in third party community development organizations may be considered as qualified investments or as community development loans or both (provided there is no double counting), at the institution's option, as described above in the discussion regarding 12 CFR ___.22(d) and ___.23(b).

Benefit Inside and Outside Assessment Area(s)

Benefit Inside Assessment Area(s). The regulatory Agencies consider all qualified investments, community development loans, and community development services that benefit areas within the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

Benefit Outside Assessment Area(s). The regulatory Agencies consider the qualified investments, community development loans, and community development services that benefit areas outside the bank's assessment area(s), if the bank has adequately addressed the needs of its assessment area(s).

Q: How do examiners evaluate a wholesale or limited purpose institution's qualified investment in a fund that invests in projects nationwide and which has a primary purpose of community development, as that is defined in the regulations?

A: If examiners find that a wholesale or limited purpose institution has adequately addressed the needs of its assessment area(s), they will give consideration to qualified investments, as well as community development loans and community development services, by that institution nationwide. In determining whether an institution has adequately addressed the needs of its assessment area(s), examiners will consider qualified investments that benefit a broader statewide or regional area that includes the institution's assessment area(s).

Community Development Performance Rating

The regulatory Agencies will assign each wholesale or limited-purpose bank's community development performance one of the four following ratings:

Outstanding. The regulatory Agencies rate a wholesale or limited-purpose bank's community development performance "Outstanding" if, in general, it demonstrates:

1. A high level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;
2. Extensive use of innovative or complex qualified investments, community development loans, or community development services; and
3. Excellent responsiveness to credit and community development needs in its assessment area(s).

Satisfactory. The regulatory Agencies rate a wholesale or limited-purpose bank's community development performance "Satisfactory" if, in general, it demonstrates:

1. An adequate level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;
2. Occasional use of innovative or complex qualified investments, community development loans, or community development services; and
3. Adequate responsiveness to credit and community development needs in its assessment area(s).

Needs to Improve. The regulatory Agencies rate a wholesale or limited-purpose bank's community development performance as "Needs to Improve" if, in general, it demonstrates:

1. A poor level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;
2. Rare use of innovative or complex qualified investments, community development loans, or community development services; and
3. Poor responsiveness to credit and community development needs in its assessment area(s).

Substantial Noncompliance. The regulatory Agencies rate a wholesale or limited-purpose bank's community development performance in "Substantial Noncompliance" if, in general, it demonstrates:

1. Few, if any, community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;
2. No use of innovative or complex qualified investments, community development loans, or community development services; and
3. Very poor responsiveness to credit and community development needs in its assessment area(s).

Q: Must a wholesale or limited purpose institution engage in all three categories of community development activities (lending, investment, and service) to perform well under the community development test?

A: No, a wholesale or limited purpose institution may perform well under the community development test by engaging in one or more of these activities.

Section 8: Small Bank Performance Standards[18]

Performance Criteria

The regulatory Agencies evaluate the record of a small bank, or a bank that was not an intermediate small bank during the prior calendar year, of helping to meet the credit needs of its assessment area(s) under only the lending test discussed below.

The regulatory Agencies evaluate the record of a small bank that is, or that was during the prior calendar year, an intermediate small bank, of helping to meet the credit needs of its assessment area(s) under both the lending and community development tests discussed below.

Q: When evaluating a small or intermediate small institution's performance, will examiners consider, at the institution's request, retail and community development loans originated or purchased by affiliates, qualified investments made by affiliates, or community development services provided by affiliates?

A: Yes. However, a small institution that elects to have examiners consider affiliate activities must maintain sufficient information that the examiners may evaluate these activities under the appropriate performance criteria and ensure that the activities are not claimed by another institution. The constraints applicable to affiliate activities claimed by large institutions also apply to small and intermediate small institutions. See Q&As addressing 12 CFR ___.22(c)(2) and related guidance provided to large institutions regarding affiliate activities. Examiners will not include affiliate lending in calculating the percentage of loans and, as appropriate, other lending-related activities located in an institution's assessment area.

Q: When is an institution examined as an intermediate small institution?

A: When a small institution has met the intermediate small institution asset threshold delineated in 12 CFR ___.12(u)(1) for two consecutive calendar year-ends, the institution may be examined under the intermediate small institution examination procedures. The regulation does not specify an additional lag period between becoming an intermediate small institution and being examined as an intermediate small institution, as it does for large institutions, because an intermediate small institution is not subject to CRA data collection and reporting requirements. Institutions should contact their primary regulator for information on examination schedules.

Lending Test

A small bank's lending performance is evaluated pursuant to the following criteria:

1. The bank's loan-to-deposit ratio, adjusted for seasonal variation, and, as appropriate, other lending-related activities, such as loan originations for sale to the secondary markets, community development loans, or qualified investments;
2. The percentage of loans and, as appropriate, other lending-related activities located in the bank's assessment area(s);

18 12 C.F.R. § 25.26, 228.26, 345.26.

3. The bank's record of lending to and, as appropriate, engaging in other lending-related activities for borrowers of different income levels and businesses and farms of different sizes;
4. The geographic distribution of the bank's loans;
5. The bank's record of taking action, if warranted, in response to written complaints about its performance in helping to meet credit needs in its assessment area(s).

Q: ***May examiners consider, under one or more of the performance criteria of the small institution performance standards, lending-related activities, such as community development loans and lending-related qualified investments, when evaluating a small institution?***

A: Yes. Examiners can consider "lending-related activities," including community development loans and lending-related qualified investments, when evaluating the first four performance criteria of the small institution performance test. Although lending-related activities are specifically mentioned in the regulation in connection with only the first three criteria (i.e., loan-to-deposit ratio, percentage of loans in the institution's assessment area, and lending to borrowers of different incomes and businesses of different sizes), examiners can also consider these activities when they evaluate the fourth criteria—geographic distribution of the institution's loans.

Although lending-related community development activities are evaluated under the community development test applicable to intermediate small institutions, these activities may also augment the loan-to-deposit ratio analysis (12 CFR ___.26(b)(1)) and the percentage of loans in the intermediate small institution's assessment area analysis (12 CFR ___.26(b)(2)), if appropriate.

Q: ***What is meant by "as appropriate" when referring to the fact that lending-related activities will be considered, "as appropriate," under the various small institution performance criteria?***

A: "As appropriate" means that lending-related activities will be considered when it is necessary to determine whether an institution meets or exceeds the standards for a satisfactory rating. Examiners will also consider other lending-related activities at an institution's request, provided they have not also been considered under the community development test applicable to intermediate small institutions.

Q: ***When evaluating a small institution's lending performance, will examiners consider, at the institution's request, community development loans originated or purchased by a consortium in which the institution participates or by a third party in which the institution has invested?***

A: Yes. However, a small institution that elects to have examiners consider community development loans originated or purchased by a consortium or third party must maintain sufficient information on its share of the community development loans so that the examiners may evaluate these loans under the small institution performance criteria.

Q: ***Under the small institution lending test performance standards, will examiners consider both loan originations and purchases?***

A: Yes, consistent with the other assessment methods in the regulation, examiners will consider both loans originated and purchased by the institution. Likewise, examiners may consider any other loan data the small institution chooses to provide, including data on loans outstanding, commitments, and letters of credit.

Q: Under the small institution lending test performance standards, how will qualified investments be considered for purposes of determining whether a small institution receives a satisfactory CRA rating?

A: The small institution lending test performance standards focus on lending and other lending-related activities. Therefore, examiners will consider only lending-related qualified investments for the purpose of determining whether a small institution that is not an intermediate small institution receives a satisfactory CRA rating.

Q: How is the loan-to-deposit ratio calculated?

A: A small institution's loan-to-deposit ratio is calculated in the same manner that the Uniform Bank Performance Report/Uniform Thrift Performance Report (UBPR/UTPR) determines the ratio. It is calculated by dividing the institution's net loans and leases by its total deposits. The ratio is found in the Liquidity and Investment Portfolio section of the UBPR and UTPR. Examiners will use this ratio to calculate an average since the last examination by adding the quarterly loan-to-deposit ratios and dividing the total by the number of quarters.

Q: How is the "reasonableness" of a loan-to-deposit ratio evaluated?

A: No specific ratio is reasonable in every circumstance, and each small institution's ratio is evaluated in light of information from the performance context, including the institution's capacity to lend, demographic and economic factors present in the assessment area, and the lending opportunities available in the assessment area(s). If a small institution's loan-to-deposit ratio appears unreasonable after considering this information, lending performance may still be satisfactory under this criterion taking into consideration the number and the dollar volume of loans sold to the secondary market or the number and amount and innovativeness or complexity of community development loans and lending-related qualified investments.

Q: If an institution makes a large number of loans off-shore, will examiners segregate the domestic loan-to-deposit ratio from the foreign loan-to-deposit ratio?

A: No. Examiners will look at the institution's net loan-to-deposit ratio for the whole institution, without any adjustments.

Q: Must a small institution have a majority of its lending in its assessment area(s) to receive a satisfactory performance rating?

A: No. The percentage of loans and, as appropriate, other lending-related activities located in the institution's assessment area(s) is but one of the performance criteria upon which small institutions are evaluated. If the percentage of loans and other lending related activities in an institution's assessment area(s) is less than a majority, then the institution does not meet the standards for satisfactory performance only under this criterion. The effect on the overall performance rating of the institution, however, is considered in light of the performance context, including information regarding economic conditions; loan demand; the institution's size, financial condition, business strategies, and branching network; and other aspects of the institution's lending record.

Q: How will a small institution's performance be assessed under these lending distribution criteria?

A: Distribution of loans, like other small institution performance criteria, is considered in light of the performance context. For example, a small institution is not required to lend evenly throughout its assessment area(s) or in any particular geography. However, in order to meet the standards for satisfactory performance under this criterion, conspicuous gaps in a small institution's loan distribution must be adequately explained by performance context factors such as lending opportunities in the institution's assessment area(s), the institution's product offerings and business strategy, and institutional capacity and constraints. In addition, it may be impracticable to review the geographic distribution of the lending of an institution with very few demographically distinct geographies within an assessment area. If sufficient information on the income levels of individual borrowers or the revenues or sizes of business borrowers is not available, examiners may use loan size as a proxy for estimating borrower characteristics, where appropriate.

Community Development Test

An intermediate small bank's community development performance also is evaluated pursuant to the following criteria:

1. The number and amount of community development loans;
2. The number and amount of qualified investments;
3. The extent to which the bank provides community development services; and
4. The bank's responsiveness through such activities to community development lending, investment, and services needs.

Q: How will the community development test be applied flexibly for intermediate small institutions?

A: Generally, intermediate small institutions engage in a combination of community development loans, qualified investments, and community development services. An institution may not simply ignore one or more of these categories of community development, nor do the regulations prescribe a required threshold for community development loans, qualified investments, and community development services. Instead, based on the institution's assessment of community development needs in its assessment area(s), it may engage in different categories of community development activities that are responsive to those needs and consistent with the institution's capacity.

An intermediate small institution has the flexibility to allocate its resources among community development loans, qualified investments, and community development services in amounts that it reasonably determines are most responsive to community development needs and opportunities. Appropriate levels of each of these activities would depend on the capacity and business strategy of the institution, community needs, and number and types of opportunities for community development.

Q: What will examiners consider when evaluating the provision of community development services by an intermediate small institution?

A: Examiners will consider not only the types of services provided to benefit low- and moderate-income individuals, such as low-cost checking accounts and low-cost remittance services, but also the provision and availability of services to low- and moderate-income individuals, including through branches and other facilities located in low- and moderate-income areas. Generally, the presence of branches located in low-and moderate-income geographies will help to demonstrate the availability of banking services to low- and moderate-income individuals.

Q: When evaluating an intermediate small institution's community development record, what will examiners consider when reviewing the responsiveness of community development lending, qualified investments, and community development services to the community development needs of the area?

A: When evaluating an intermediate small institution's community development record, examiners will consider not only quantitative measures of performance, such as the number and amount of community development loans, qualified investments, and community development services, but also qualitative aspects of performance. In particular, examiners will evaluate the responsiveness of the institution's community development activities in light of the institution's capacity, business strategy, the needs of the community, and the number and types of opportunities for each type of community development activity (its performance context). Examiners also will consider the results of any assessment by the institution of community development needs, and how the institution's activities respond to those needs.

An evaluation of the degree of responsiveness considers the following factors: the volume, mix, and qualitative aspects of community development loans, qualified investments, and community development services. Consideration of the qualitative aspects of performance recognizes that community development activities sometimes require special expertise or effort on the part of the institution or provide a benefit to the community that would not otherwise be made available. (However, "innovativeness" and "complexity," factors examiners consider when evaluating a large institution under the lending, investment, and service tests, are not criteria in the intermediate small institutions' community development test.) In some cases, a smaller loan may have more qualitative benefit to a community than a larger loan. Activities are considered particularly responsive to community development needs if they benefit low- and moderate-income individuals in low- or moderate-income geographies, designated disaster areas, or distressed or underserved non metropolitan middle-income geographies. Activities are also considered particularly responsive to community development needs if they benefit low- or moderate-income geographies.

Small Bank Performance Rating

The regulatory Agencies will rate the performance of each bank evaluated under the small bank performance standards as follows.

Lending Test Ratings

Eligibility for a Satisfactory Rating. The regulatory Agencies rate a small bank's lending performance "Satisfactory" if, in general, the bank demonstrates:

1. A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's size, financial condition, the credit needs of its assessment area(s), and taking into account, as appropriate, lending-related activities such as loan originations for sale to the secondary markets and community development loans and qualified investments;
2. A majority of its loans and, as appropriate, other lending-related activities, are in its assessment area(s);
3. A distribution of loans to and, as appropriate, other lending related-activities for individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes that is reasonable given the demographics of the bank's assessment area(s);
4. A record of taking appropriate action, as warranted, in response to written complaints, if any, about the bank's performance in helping to meet the credit needs of its assessment area(s); and
5. A reasonable geographic distribution of loans, given the bank's assessment area(s).

Eligibility for an Outstanding Rating. A small bank that meets each of the standards for a "Satisfactory" rating enumerated above and that exceeds some or all of those standards may warrant consideration for an overall rating of "Outstanding."

Needs to Improve or Substantial Noncompliance Ratings. A bank may receive a rating of "Needs to Improve" or "Substantial Noncompliance," depending on the degree to which its performance has failed to meet the standards for a "Satisfactory" rating.

Community Development Test Ratings for Intermediate Small Banks

Eligibility for a Satisfactory Community Development Test Rating. The Agencies rate an intermediate small bank's community development performance "satisfactory" if the bank demonstrates adequate responsiveness to the community development needs of its assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s) through community development loans, qualified investments, and community development services. The adequacy of the bank's response will depend on its capacity for such community development activities, its assessment area's need for such community development activities, and the availability of such opportunities for community development in the bank's assessment area(s).

Eligibility for an Outstanding Community Development Test Rating. The Agencies rate an intermediate small bank's community development performance "outstanding" if the bank demonstrates excellent responsiveness to community development needs in its assessment area(s) through community development loans, qualified investments, and community development services, as appropriate, considering the bank's capacity and the need and availability of such opportunities for community development in the bank's assessment area(s).

Needs to Improve or Substantial Noncompliance Ratings. An intermediate small bank may also receive a community development test rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.

Overall Rating

Eligibility for a Satisfactory Overall Rating. No intermediate small bank may receive an assigned overall rating of "satisfactory" unless it receives a rating of at least "satisfactory" on both the lending test and the community development test.

Eligibility for an Outstanding Overall Rating. An intermediate small bank that receives an "outstanding" rating on one test and at least "satisfactory" on the other test may receive an assigned overall rating of "outstanding."

A small bank that is not an intermediate small bank that meets each of the standards for a "satisfactory" rating under the lending test and exceeds some or all of those standards may warrant consideration for an overall rating of "outstanding." In assessing whether a bank's performance is "outstanding," the regulators consider the extent to which the bank exceeds each of the performance standards for a "satisfactory" rating and its performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

Needs to Improve or Substantial Noncompliance Overall Ratings. A small bank may also receive a rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.

Q: How can a small institution that is not an intermediate small institution achieve an "outstanding" performance rating?

A: A small institution that is not an intermediate small institution that meets each of the standards in the lending test for a "satisfactory" rating and exceeds some or all of those standards may warrant an "outstanding" performance rating. In assessing performance at the "outstanding" level, the agencies consider the extent to which the institution exceeds each of the performance standards and, at the institution's option, its performance in making qualified investments and providing services that enhance credit availability in its assessment area(s). In some cases, a small institution may qualify for an "outstanding" performance rating solely on the basis of its lending activities, but only if its performance materially exceeds the standards for a "satisfactory" rating, particularly with respect to the penetration of borrowers at all income levels and the dispersion of loans throughout the geographies in its assessment area(s) that display income variation. An institution with a high loan-to-deposit ratio and a high percentage of loans in its assessment area(s), but with only a reasonable penetration of borrowers at all income levels or a reasonable dispersion of loans throughout geographies of differing income levels in its assessment area(s), generally will not be rated "outstanding" based only on its lending performance. However, the institution's performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s) may augment the institution's satisfactory rating to the extent that it may be rated "outstanding."

Q: Will a small institution's qualified investments, community development loans, and community development services be considered if they do not directly benefit its assessment area(s)?

A: Yes. These activities are eligible for consideration if they benefit a broader statewide or regional area that includes a small institution's assessment area(s), as discussed more fully in Q&As §___.12(h)–6 and §___.12(h)–7.

Section 9: Strategic Plan[19]

Alternative Election

The regulatory Agencies will assess a bank's record of helping to meet the credit needs of its assessment area(s) under a strategic plan if:

1. The bank has submitted the plan to the regulatory Agencies as provided for in this section;
2. The regulatory Agencies have approved the plan;
3. The plan is in effect; and
4. The bank has been operating under an approved plan for at least one year.

Data Reporting

The regulatory Agencies' approval of a plan does not affect the bank's obligation, if any, to report data as required by paragraph 42–Data Collection, Reporting, and Disclosure.

Term

A plan may have a term of no more than five years, and any multi-year plan must include annual interim measurable goals under which the regulatory Agencies will evaluate the bank's performance.

Multiple Assessment Areas

A bank with more than one assessment area may prepare a single plan for all of its assessment areas or one or more plans for one or more of its assessment areas.

Treatment of Affiliates

Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.

Public Participation in Plan Development

Before submitting a plan to the regulatory Agencies for approval, a bank shall:

19 12 C.F.R. § 25.27, 228.27, 345.27.

1. Informally seek suggestions from members of the public in its assessment area(s) covered by the plan while developing the plan;
2. Once the bank has developed a plan, formally solicit public comment on the plan for at least 30 days by publishing notice in at least one newspaper of general circulation in each assessment area covered by the plan; and
3. During the period of formal public comment, make copies of the plan available for review by the public at no cost at all offices of the bank in any assessment area covered by the plan, and provide copies of the plan upon request for a reasonable fee to cover copying and mailing, if applicable.

Submission of Plan

The bank shall submit its plan to the regulatory Agencies at least three months prior to the proposed effective date of the plan. The bank shall also submit with its plan a description of its informal efforts to seek suggestions from members of the public, any written public comment received, and, if the plan was revised in light of the comment received, the initial plan as released for public comment.

Q: To what extent will the agencies provide guidance to an institution during the development of its strategic plan?

A: An institution will have an opportunity to consult with and provide information to the agencies on a proposed strategic plan. Through this process, an institution is provided guidance on procedures and on the information necessary to ensure a complete submission. For example, the agencies will provide guidance on whether the level of detail as set out in the proposed plan would be sufficient to permit agency evaluation of the plan. However, the agencies' guidance during plan development and, particularly, prior to the public comment period, will not include commenting on the merits of a proposed strategic plan or on the adequacy of measurable goals.

Q: How will a joint strategic plan be reviewed if the affiliates have different primary Federal supervisors?

A: The agencies will coordinate review of and action on the joint plan. Each agency will evaluate the measurable goals for those affiliates for which it is the primary regulator.

Plan Content

Measurable Goals

1. A bank shall specify in its plan measurable goals for helping to meet the credit needs of each assessment area covered by the plan, particularly the needs of low- and moderate-income geographies and low- and moderate-income individuals, through lending, investment, and services, as appropriate.
2. A bank shall address in its plan all three performance categories and, unless the bank has been designated as a wholesale or limited-purpose bank, shall emphasize lending and lending-related activities. Nevertheless, a different emphasis, including a focus on one or

more performance categories, may be appropriate if responsive to the characteristics and credit needs of its assessment area(s), considering public comment and the bank's capacity and constraints, product offerings, and business strategy.

Confidential Information. A bank may submit additional information to the regulatory Agencies on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the regulatory Agencies to judge the merits of the plan.

Satisfactory and Outstanding Goals. A bank shall specify in its plan measurable goals that constitute "Satisfactory" performance. A plan may specify measurable goals that constitute "Outstanding" performance. If a bank submits, and the regulatory Agencies approve, both "Satisfactory" and "Outstanding" performance goals, the regulatory Agencies will consider the bank eligible for an "Outstanding" performance rating.

Election if Satisfactory Goals Are Not Substantially Met. A bank may elect in its plan that, if the bank fails to meet substantially its plan goals for a Satisfactory rating, the regulatory Agencies will evaluate the bank's performance under the lending, investment, and service tests, the community development test, or the small bank performance standards, as appropriate.

Q: How should annual measurable goals be specified in a strategic plan?

A: Annual measurable goals (e.g., number of loans, dollar amount, geographic location of activity, and benefit to low- and moderate-income areas or individuals) must be stated with sufficient specificity to permit the public and the agencies to quantify what performance will be expected. However, institutions are provided flexibility in specifying goals. For example, an institution may provide ranges of lending amounts in different categories of loans. Measurable goals may also be linked to funding requirements of certain public programs or indexed to other external factors as long as these mechanisms provide a quantifiable standard.

Plan Approval

Timing. The regulatory Agencies will act upon a plan within 60 calendar days after the regulatory Agencies receive the complete plan and other material outlined in "Public Participation in Plan Development" above. If the regulatory Agencies fail to act within this time period, the plan shall be deemed approved unless the regulatory Agencies extend the review period for good cause.

Public Participation. In evaluating the plan's goals, the regulatory Agencies consider the public's involvement in formulating the plan, written public comment on the plan, and any response by the bank to public comment on the plan.

Criteria for Evaluating the Plan. The regulatory Agencies evaluate a plan's measurable goals using the following criteria, as appropriate:

1. The extent and breadth of lending or lending-related activities, including, as appropriate, the distribution of loans among different geographies, businesses and farms of different sizes, and individuals of different income levels, the extent of community development lending, and the use of innovative or flexible lending practices to address credit needs;
2. The amount and innovativeness, complexity, and responsiveness of the bank's qualified investments;

3. The availability and effectiveness of the bank's systems for delivering retail banking services and the extent and innovativeness of the bank's community development services.

Q: How will the public receive notice of a proposed strategic plan?

A: An institution submitting a strategic plan for approval by the agencies is required to solicit public comment on the plan for a period of thirty (30) days after publishing notice of the plan at least once in a newspaper of general circulation. The notice should be sufficiently prominent to attract public attention and should make clear that public comment is desired. An institution may, in addition, provide notice to the public in any other manner it chooses.

Plan Amendment

During the term of a plan, a bank may request the regulatory Agencies to approve an amendment to the plan on the grounds that there has been a material change in circumstances. The bank shall develop an amendment to a previously approved plan in accordance with the public participation requirements outlined in "Public Participation in Plan Development" above.

Plan Assessment

The regulatory Agencies approve the goals and assess performance under a plan as provided below.

Strategic Plan Assessment and Rating

Satisfactory Goals. The regulatory Agencies approve as "Satisfactory" measurable goals that adequately help to meet the credit needs of the bank's assessment area(s).

Outstanding Goals. If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as "Satisfactory," the regulatory Agencies will approve those goals as "Outstanding."

Rating. The regulatory Agencies assess the performance of a bank operating under an approved plan to determine if the bank has met its plan goals.

1. If the bank substantially achieves its plan goals for a satisfactory rating, the regulatory Agencies will rate the bank's performance under the plan as "Satisfactory."
2. If the bank exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating, the regulatory Agencies will rate the bank's performance under the plan as "Outstanding."
3. If the bank fails to meet substantially its plan goals for a satisfactory rating, the regulatory Agencies will rate the bank as either "Needs to Improve" or "Substantial Noncompliance," depending on the extent to which it falls short of its plan goals, unless the bank elected in its plan to be rated otherwise, as provided in paragraph 27(f)(4).

Section 10: Assigned Ratings/Discrimination/Impact

Ratings

The regulatory Agencies will assign a bank a rating of “Outstanding,” “Satisfactory,” “Needs to Improve,” or “Substantial Noncompliance” based on the bank’s performance under the lending, investment, and service tests; the community development test; the small bank performance standards; or an approved strategic plan, as applicable.

Q: Are innovative lending practices, innovative or complex qualified investments, and innovative community development services required for a “satisfactory” or “outstanding” CRA rating?

A: No. The performance criterion of “innovativeness” applies only under the lending, investment, and service tests applicable to large institutions and the community development test applicable to wholesale and limited purpose institutions. Moreover, even under these tests, the lack of innovative lending practices, innovative or complex qualified investments, or innovative community development services alone will not result in a “needs to improve” CRA rating. However, under these tests, the use of innovative lending practices, innovative or complex qualified investments, and innovative community development services may augment the consideration given to an institution’s performance under the quantitative criteria of the regulations, resulting in a higher level of performance rating. See also Q&A §___.26(c)(4)–1 for a discussion about responsiveness to community development needs under the community development test applicable to intermediate small institutions.

Q: How are institutions with domestic branches in more than one state assigned a rating?

A: The evaluation of an institution that maintains domestic branches in more than one state (“multistate institution”) will include a written evaluation and rating of its CRA record of performance as a whole and in each state in which it has a domestic branch. The written evaluation will contain a separate presentation on a multi-state institution’s performance for each metropolitan statistical area and the nonmetropolitan area within each state, if it maintains one or more domestic branch offices in these areas. This separate presentation will contain conclusions, supported by facts and data, on performance under the performance tests and standards in the regulation. The evaluation of a multi-state institution that maintains a domestic branch in two or more states in a multi-state metropolitan area will include a written evaluation (containing the same information described above) and rating of its CRA record of performance in the multi-state metropolitan area. In such cases, the statewide evaluation and rating will be adjusted to reflect performance in the portion of the state not within the multi-state metropolitan statistical area.

Q: How are institutions that operate within only a single state assigned a rating?

A: An institution that operates within only a single state (“single-state institution”) will be assigned a rating of its CRA record based on its performance within that state. In assigning this rating, the agencies will separately present a single-state institution’s performance for each metropolitan area in which the institution maintains one or more domestic branch offices. This separate presentation will contain conclusions, supported by facts and data, on the single-state institution’s performance under the performance tests and standards in the regulation.

Q:* *How do the agencies weight performance under the lending, investment, and service tests for large retail institutions?

A: A rating of "outstanding," "high satisfactory," "low satisfactory," "needs to improve," or "substantial noncompliance," based on a judgment supported by facts and data, will be assigned under each performance test. Points will then be assigned to each rating as described in the first matrix set forth below. [Editor's Note: The matrix is shown on Page 34 of this manual] A large retail institution's overall rating under the lending, investment, and service tests will then be calculated in accordance with the second matrix set forth below, which incorporates the rating principles in the regulation. [Editor's Note: The second matrix is also on Page 34 of this manual]

Q:* *Must an institution's performance fit each aspect of a particular rating profile in order to receive that rating?

A: *No.* Exceptionally strong performance in some aspects of a particular rating profile may compensate for weak performance in others. For example, a retail institution other than an intermediate small institution that uses non-branch delivery systems to obtain deposits and to deliver loans may have almost all of its loans outside the institution's assessment area. Assume that an examiner, after consideration of performance context and other applicable regulatory criteria, concludes that the institution has weak performance under the lending criteria applicable to lending activity, geographic distribution, and borrower characteristics within the assessment area. The institution may compensate for such weak performance by exceptionally strong performance in community development lending in its assessment area or a broader statewide or regional area that includes its assessment area.

Lending, Investment, and Service Tests

The regulatory Agencies assign a rating for a bank assessed under the lending, investment, and service tests in accordance with the following principles:

1. A bank that receives an "Outstanding" rating on the lending test receives an assigned rating of at least "Satisfactory";
2. A bank that receives an "Outstanding" rating on both the service test and the investment test and a rating of at least "High Satisfactory" on the lending test receives an assigned rating of "Outstanding"; and
3. No bank may receive an assigned rating of "Satisfactory" or higher unless it receives a rating of at least "Low Satisfactory" on the lending test.

Q:* *How is performance under the quantitative and qualitative performance criteria weighed when examiners assign a CRA rating?

A: The lending, investment, and service tests each contain a number of performance criteria designed to measure whether an institution is effectively helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, in a safe and sound manner. Some of these performance criteria are quantitative, such as number and amount, and others, such as the use of innovative or flexible lending practices, the innovativeness or complexity of qualified investments, and the innovativeness and responsiveness of community development services, are qualitative. The performance criteria that deal with these qualitative aspects of performance recognize that these loans, qualified investments, and community development services sometimes require special expertise and effort on the part of the institution and provide a benefit to the community that would not otherwise be possible. As such, the agencies consider the qualitative aspects of an institution's activities when measuring the benefits received by a community. An institution's performance under these qualitative criteria may augment the consideration given to an institution's performance under the quantitative criteria of the regulations, resulting in a higher level of performance and rating.

Evidence of Discriminatory or Other Illegal Credit Practices

The regulator's evaluation of a bank's CRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any geography by the bank or in any assessment area by any affiliate whose loans have been considered as part of the bank's lending performance. In connection with any type of lending activity, evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes, but is not limited to:

1. Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act (ECOA) or the Fair Housing Act (FHAct);
2. Violations of the Home Ownership and Equity Protection Act (HOEPA);
3. Violations of section 5 of the Federal Trade Commission Act (FTC Act);
4. Violations of section 8 of the Real Estate Settlement Procedures Act (RESPA); and
5. Violations of the Truth in Lending Act (TILA) provisions regarding a consumer's right of rescission.

In determining the effect on the bank's assigned rating, the regulatory Agencies consider the nature and extent of the evidence, the policies and procedures that the bank has in place to prevent discriminatory or other illegal credit practices, any corrective action that the bank has taken or has committed to take (particularly voluntary corrective action resulting from self-assessment), and other relevant information.

Q: What is meant by "discriminatory or other illegal credit practices"?

A: An institution engages in discriminatory credit practices if it discourages or discriminates against credit applicants or borrowers on a prohibited basis, in violation, for example, of the Fair Housing Act or the Equal Credit Opportunity Act (as implemented by Regulation B). Examples of other illegal credit practices inconsistent with helping to meet community credit needs include violations of:

- The Truth in Lending Act regarding rescission of certain mortgage transactions and regarding disclosures and certain loan term restrictions in connection with credit transactions that are subject to the Home Ownership and Equity Protection Act;
- The Real Estate Settlement Procedures Act regarding the giving and accepting of referral fees, unearned fees or kickbacks in connection with certain mortgage transactions; and
- The Federal Trade Commission Act regarding unfair or deceptive acts or practices.

Examiners will determine the effect of evidence of illegal credit practices as set forth in examination procedures and §___.28(c) of the regulation.

Violations of other provisions of the consumer protection laws generally will not adversely affect an institution's CRA rating, but may warrant the inclusion of comments in an institution's performance evaluation. These comments may address the institution's policies, procedures, training programs, and internal assessment efforts.

Effect of CRA Performance on Applications[20]

Among other factors, the regulatory Agencies will take into account the record of performance under the CRA of:

1. Each applicant bank for the:
   a. Establishment of a domestic branch by a state member bank, and
   b. Merger, consolidation, acquisition of assets, or assumption of liabilities requiring approval under the Bank Merger Act (12 U.S.C. § 1828(c)) if the acquiring, assuming, or resulting bank is to be a state member bank; and
2. Each insured depository institution (as defined in 12 U.S.C. § 1813)[21] controlled by an applicant and subsidiary bank or savings association proposed to be controlled by an applicant:
   a. To become a bank holding company in a transaction that requires approval under section 3 of the Bank Holding Company Act (12 U.S.C. § 1842);
   b. To acquire ownership or control of shares or all or substantially all of the assets of a bank, to cause a bank to become a subsidiary of a bank holding company, or to merge or consolidate a bank holding company with any other bank holding company in a transaction that requires approval under section 3 of the Bank Holding Company Act (12 U.S.C. § 1842); and
   c. To own, control, or operate a savings association in a transaction that requires approval under section 4 of the Bank Holding Company Act (12 U.S.C. § 1843).

Q: What weight is given to an institution's CRA performance examination in reviewing an application?

A: In reviewing applications in which CRA performance is a relevant factor, information from a CRA examination of the institution is a particularly important consideration. The examination is a detailed evaluation of the institution's CRA performance by its Federal supervisory agency. In this light, an examination is an important, and often controlling, factor in the consideration of an institution's record. In some cases, however, the examination may not be recent, or a specific issue raised in the application process, such as progress in addressing weaknesses noted by examiners, progress in implementing commitments previously made to the reviewing agency, or a supported allegation from a commenter, is relevant to CRA performance under the regulation and was not addressed in the examination. In these circumstances, the applicant should present sufficient information to supplement its record of performance and to respond to the substantive issues raised in the application proceeding.

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20 12 C.F.R. § 25.29, 228.29, 345.29.

21 For purposes of this section, "bank," "bank holding company," "subsidiary," and "savings association" have the meanings given to those terms in section 2 of the Bank Holding Company Act (12 U.S.C. § 1841).

Q: What consideration is given to an institution's commitments for future action in reviewing an application by those agencies that consider such commitments?

A: Commitments for future action are not viewed as part of the CRA record of performance. In general, institutions cannot use commitments made in the applications process to overcome a seriously deficient record of CRA performance. However, commitments for improvements in an institution's performance may be appropriate to address specific weaknesses in an otherwise satisfactory record or to address CRA performance when a financially troubled institution is being acquired.

Interested Parties

In considering CRA performance in an application, the regulatory Agencies take into account any views expressed by interested parties that are submitted in accordance with the regulatory Agencies' Rules of Procedure.

Q: What consideration is given to comments from interested parties in reviewing an application?

A: Materials relating to CRA performance received during the application process can provide valuable information. Written comments, which may express either support for or opposition to the application, are made a part of the record in accordance with the agencies' procedures, and are carefully considered in making the agencies' decisions. Comments should be supported by facts about the applicant's performance and should be as specific as possible in explaining the basis for supporting or opposing the application. These comments must be submitted within the time limits provided under the agencies' procedures.

Q: Is an institution required to enter into agreements with private parties?

A: No. Although communications between an institution and members of its community may provide a valuable method for the institution to assess how best to address the credit needs of the community, the CRA does not require an institution to enter into agreements with private parties. The agencies do not monitor compliance with nor enforce these agreements.

Denial or Conditional Approval of Application

A bank's record of performance may be the basis for denying or conditioning approval of an application.

Section 11: Subpart C – Records, Reporting, and Disclosure Requirements

Assessment Area Delineation[22]

In general, a bank shall delineate one or more assessment areas within which the regulatory Agencies evaluate the bank's record of helping to meet the credit needs of its community. The regulatory Agencies will not evaluate the bank's delineation of its assessment area(s) as a separate performance criterion, but the regulatory Agencies will review the delineation for compliance with the requirements of this section.

Q: How do the agencies evaluate "assessment areas" under the CRA regulations?

A: The rule focuses on the distribution and level of an institution's lending, investments, and services rather than on how and why an institution delineated its assessment area(s) in a particular manner. Therefore, the agencies will not evaluate an institution's delineation of its assessment area(s) as a separate performance criterion. Rather, the agencies will only review whether the assessment area delineated by the institution complies with the limitations set forth in the regulations at §___.41(e).

Q: If an institution elects to have the agencies consider affiliate lending, will this decision affect the institution's assessment area(s)?

A: If an institution elects to have the lending activities of its affiliates considered in the evaluation of the institution's lending, the geographies in which the affiliate lends do not affect the institution's delineation of assessment area(s).

Q: Can a financial institution identify a specific racial or ethnic group rather than a geographic area as its assessment area?

A: No, assessment areas must be based on geography. The only exception to the requirement to delineate an assessment area based on geography is that an institution, the business of which predominantly consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area, may delineate its entire deposit customer base as its assessment area.

Geographic Area(s) for Wholesale or Limited-Purpose Banks

The assessment area(s) for a wholesale or limited-purpose bank must consist generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank has its main office, branches, and deposit-taking ATMs.

22 12 C.F.R. § 25.41, 228.41, 345.41.

Geographic Area(s) for Other Banks

The assessment area(s) for a bank other than a wholesale or limited-purpose bank must:

1. Consist generally of one or more MSAs (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns and
2. Include the geographies in which the bank has its main office, its branches, and its deposit-taking ATMs, as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans (including home mortgage loans, small business and small farm loans, and any other loans the bank chooses, such as those consumer loans on which the bank elects to have its performance assessed).

Q: ***Besides cities, towns, and counties, what other units of local government are political subdivisions for CRA purposes?***

A: Townships and Indian reservations are political subdivisions for CRA purposes. Institutions should be aware that the boundaries of townships and Indian reservations may not be consistent with the boundaries of the census tracts ("geographies") in the area. In these cases, institutions must ensure that their assessment area(s) consists only of whole geographies by adding any portions of the geographies that lie outside the political subdivision to the delineated assessment area(s).

Q: ***Are wards, school districts, voting districts, and water districts political subdivisions for CRA purposes?***

A: No. However, an institution that determines that it predominantly serves an area that is smaller than a city, town, or other political subdivision may delineate as its assessment area the larger political subdivision and then, in accordance with 12 CFR ___.41(d), adjust the boundaries of the assessment area to include only the portion of the political subdivision that it reasonably can be expected to serve. The smaller area that the institution delineates must consist of entire geographies, may not reflect illegal discrimination, and may not arbitrarily exclude low-or moderate-income geographies.

Adjustments to Geographic Area(s)

A bank may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

Q: ***When may an institution adjust the boundaries of an assessment area to include only a portion of a political subdivision?***

A: Institutions must include whole geographies (i.e., census tracts) in their assessment areas and generally should include entire political subdivisions. Because census tracts are the common geographic areas used consistently nationwide for data collection, the agencies require that assessment areas be made up of whole geographies. If including an entire political subdivision would create an area that is larger than the area the institution can reasonably be expected to serve, an institution may, but is not required to, adjust the boundaries of its assessment area to include only portions of the political subdivision. For example, this adjustment is appropriate if the assessment area would otherwise be extremely large, of unusual configuration, or divided by significant geographic barriers (such as a river, mountain, or major highway system). When adjusting the boundaries of their assessment areas, institutions must not arbitrarily exclude low- or moderate-income geographies or set boundaries that reflect illegal discrimination.

Limitations on the Delineation of an Assessment Area

Each bank's assessment area(s):

1. Must consist only of whole geographies;
2. May not reflect illegal discrimination;
3. May not arbitrarily exclude low- or moderate-income geographies, taking into account the bank's size and financial condition; and
4. May not extend substantially beyond an MSA boundary or beyond a state boundary unless the assessment area is located in a multistate MSA. If a bank serves a geographic area that extends substantially beyond a state boundary, the bank shall delineate separate assessment areas for the areas in each state. If a bank serves a geographic area that extends substantially beyond an MSA boundary, the bank shall delineate separate assessment areas for the areas inside and outside the MSA.

Q: How will examiners determine whether an institution has arbitrarily excluded low- or moderate-income geographies?

A: Examiners will make this determination on a case-by-case basis after considering the facts relevant to the institution's assessment area delineation. Information that examiners will consider may include:

- Income levels in the institution's assessment area(s) and surrounding geographies;
- Locations of branches and deposit-taking ATMs;
- Loan distribution in the institution's assessment area(s) and surrounding geographies;
- The institution's size;
- The institution's financial condition; and
- The business strategy, corporate structure and product offerings of the institution.

Q: What are the maximum limits on the size of an assessment area?

A: An institution may not delineate an assessment area extending substantially across the boundaries of an MSA unless the MSA is in a combined statistical area (CSA)). Although more than one MSA in a CSA may be delineated as a single assessment area, an institution's CRA performance in individual MSAs in those assessment areas will be evaluated using separate median family incomes and other relevant information at the MSA level rather than at the CSA level.

An assessment area also may not extend substantially across state boundaries unless the assessment area is located in a multi-state MSA. An institution may not delineate a whole state as its assessment area unless the entire state is contained within an MSA. These limitations apply to wholesale and limited purpose institutions as well as other institutions.

An institution must delineate separate assessment areas for the areas inside and outside an MSA if the area served by the institution's branches outside the MSA extends substantially beyond the MSA boundary. Similarly, the institution must delineate separate assessment areas for the areas inside and outside of a state if the institution's branches extend substantially beyond the boundary of one state (unless the assessment area is located in a multi-state MSA). In addition, the institution should also delineate separate assessment areas if it has branches in areas within the same state that are widely separate and not at all contiguous. For example, an institution that has its main office in New York City and a branch in Buffalo, New York, and each office serves only the immediate areas around it, should delineate two separate assessment areas.

Q: ***May an institution delineate one assessment area that consists of an MSA and two large counties that abut the MSA but are not adjacent to each other?***

A: As a general rule, an institution's assessment area should not extend substantially beyond the boundary of an MSA. Therefore, the MSA would be a separate assessment area, and because the two abutting counties are not adjacent to each other and, in this example, extend substantially beyond the boundary of the MSA, the institution would delineate each county as a separate assessment area, assuming branches or deposit-taking ATMs are located in each county and the MSA. So, in this example, there would be three assessment areas. However, if the MSA and the two counties were in the same CSA, then the institution could delineate only one assessment area including them all. But, the institution's CRA performance in the MSAs and the non-MSA counties in that assessment area would be evaluated using separate median family incomes and other relevant information at the MSA and state, non-MSA level, rather than at the CSA level.

Banks Serving Military Personnel

Notwithstanding the requirements of this section, a bank whose business predominantly consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area may delineate its entire deposit customer base as its assessment area.

Use of Assessment Area(s)

The regulatory Agencies use the assessment area(s) delineated by a bank in their evaluation of the bank's CRA performance unless the regulatory Agencies determine that the assessment area(s) does (do) not comply with the requirements of this section.

Data Collection, Reporting, and Disclosure[23]

Loan Information Required to Be Collected and Maintained

A bank, except a small bank, shall collect and maintain in machine-readable form (as prescribed by the regulatory Agencies), until the completion of its next CRA examination, the following data for each small business or small farm loan originated or purchased by the bank:

1. A unique number or alphanumeric symbol that can be used to identify the relevant loan file;
2. The loan amount at origination;
3. The loan location;
4. An indicator whether the loan was to a business or farm with gross annual revenues of $1 million or less.

Q: When must an institution collect and report data under the CRA regulations?

A: All institutions except small institutions are subject to data collection and reporting requirements. ("Small institution" is defined in the agencies' CRA regulations at §___.12(u).) Examples describing the data collection requirements of institutions, in particular those that have just surpassed the asset-size threshold of a small institution, may be found on the FFIEC Web site at http://www.ffiec.gov/cra. All institutions that are subject to the data collection and reporting requirements must report the data for a calendar year by March 1 of the subsequent year.

The Board of Governors of the Federal Reserve System processes the reports for all of the primary regulators. Data may be submitted on diskette, CD–ROM, or via Internet e-mail. CRA respondents are encouraged to send their data via the Internet. E-mail a properly encrypted CRA file (using the FFIEC software only Internet e-mail export feature) to the following e-mail address: crasub@frb.gov. Please mail diskette or CD–ROM submissions to: Board of Governors of the Federal Reserve System, Attention: CRA Processing, 20th & Constitution Avenue, NW., MS N502, Washington, DC 20551–0001.

Q: Should an institution develop its own program for data collection, or will the regulators require a certain format?

A: An institution may use the free software that is provided by the FFIEC to reporting institutions for data collection and reporting or develop its own program. Those institutions that develop their own programs may create a data submission using the File Specifications and Edit Validation Rules that have been set forth to assist with electronic data submissions. For information about specific electronic formatting procedures, contact the CRA Assistance Line at (202) 872–7584 or click on "How to File" at http://www.ffiec.gov/cra.

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23 12 C.F.R. § 25.42, 228.42, 345.42.

Q: How should an institution report data on lines of credit?

A: Institutions must collect and report data on lines of credit in the same way that they provide data on loan originations. Lines of credit are considered originated at the time the line is approved or increased; and an increase is considered a new origination. Generally, the full amount of the credit line is the amount that is considered originated. In the case of an increase to an existing line, the amount of the increase is the amount that is considered originated and that amount should be reported. However, consistent with the Call Report and TFR instructions, institutions would not report an increase to a small business or small farm line of credit if the increase would cause the total line of credit to exceed $1 million, in the case of a small business line, or $500,000, in the case of a small farm line. Of course, institutions may provide information about such line increases to examiners as "other loan data."

Q: Should renewals of lines of credit be collected and/or reported?

A: Renewals of lines of credit for small business, small farm, consumer, or community development purposes should be collected and reported, if applicable, in the same manner as renewals of small business or small farm loans. See Q&A §__.42(a)–5. Institutions that are HMDA reporters continue to collect and report home equity lines of credit at their option in accordance with the requirements of 12 CFR part 1003.

Q: When should merging institutions collect data?

A: Three scenarios of data collection responsibilities for the calendar year of a merger and subsequent data reporting responsibilities are described below.

- Two institutions are exempt from CRA collection and reporting requirements because of asset size. The institutions merge. No data collection is required for the year in which the merger takes place, regardless of the resulting asset size. Data collection would begin after two consecutive years in which the combined institution had year-end assets at least equal to the small institution asset-size threshold amount described in 12 CFR ___.12(u)(1).
- Institution A, an institution required to collect and report the data, and Institution B, an exempt institution, merge. Institution A is the surviving institution. For the year of the merger, data collection is required for Institution A's transactions. Data collection is optional for the transactions of the previously exempt institution. For the following year, all transactions of the surviving institution must be collected and reported.
- Two institutions that each are required to collect and report the data merge. Data collection is required for the entire year of the merger and for subsequent years so long as the surviving institution is not exempt. The surviving institution may file either a consolidated submission or separate submissions for the year of the merger but must file a consolidated report for subsequent years.

Q: Can small institutions get a copy of the data collection software even though they are not required to collect or report data?

A: Yes. Any institution that is interested in receiving a copy of the software may download it from the FFIEC Web site at http://www.ffiec.gov/cra. For assistance, institutions may call the CRA Assistance Line at (202) 872–7584 or send an e-mail to CRAHELP@FRB.GOV.

Q: ***If a small institution is designated a wholesale or limited purpose institution, must it collect data that it would not otherwise be required to collect because it is a small institution?***

A: No. However, small institutions that are designated as wholesale or limited purpose institutions must be prepared to identify those loans, investments, and services to be evaluated under the community development test.

Q: ***Must institutions collect and report data on all commercial loans of $1 million or less at origination?***

A: No. Institutions that are not exempt from data collection and reporting are required to collect and report only those commercial loans that they capture in the Call Report, Schedule RC–C, Part II, and in the TFR, Schedule SB. Small business loans are defined as those whose original amounts are $1 million or less and that were reported as either "Loans secured by non-farm or nonresidential real estate" or "Commercial and Industrial loans" in Part I of the Call Report or TFR.

Q: ***For loans defined as small business loans, what information should be collected and maintained?***

A: Institutions that are not exempt from data collection and reporting are required to collect and maintain, in a standardized, machine-readable format, information on each small business loan originated or purchased for each calendar year:

- A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
- The loan amount at origination;
- The loan location; and
- An indicator whether the loan was to a business with gross annual revenues of $1 million or less.

The location of the loan must be maintained by census tract. In addition, supplemental information contained in the file specifications includes a date associated with the origination or purchase and whether a loan was originated or purchased by an affiliate. The same requirements apply to small farm loans.

Q: ***Will farm loans need to be segregated from business loans?***

A: Yes.

Q: ***Should institutions collect and report data on all agricultural loans of $500,000 or less at origination?***

A: Institutions are to report those farm loans that they capture in the Call Report, Schedule RC–C, Part II and Schedule SB of the TFR. Small farm loans are defined as those whose original amounts are $500,000 or less and were reported as either "Loans to finance agricultural production and other loans to farmers" or "Loans secured by farmland" in Part I of the Call Report or TFR.

Q: Should institutions collect and report data about small business and small farm loans that are refinanced or renewed?

A: An institution should collect information about small business and small farm loans that it refinances or renews as loan originations. (A refinancing generally occurs when the existing loan obligation or note is satisfied and a new note is written, while a renewal refers to an extension of the term of a loan. However, for purposes of small business and small farm CRA data collection and reporting, it is not necessary to distinguish between the two.) When reporting small business and small farm data, however, an institution may only report one origination (including a renewal or refinancing treated as an origination) per loan per year, unless an increase in the loan amount is granted. However, a demand loan that is merely reviewed annually is not reported as a renewal because the term of the loan has not been extended.

If an institution increases the amount of a small business or small farm loan when it extends the term of the loan, it should always report the amount of the increase as a small business or small farm loan origination. The institution should report only the amount of the increase if the original or remaining amount of the loan has already been reported one time that year. For example, a financial institution makes a term loan for $25,000; principal payments have resulted in a present outstanding balance of $15,000. In the next year, the customer requests an additional $5,000, which is approved, and a new note is written for $20,000. In this example, the institution should report both the $5,000 increase and the renewal or refinancing of the $15,000 as originations for that year. These two originations may be reported together as a single origination of $20,000.

Q: Does a loan to the "fishing industry" come under the definition of a small farm loan?

A: Yes. Instructions for Part I of the Call Report and Schedule SB of the TFR include loans "made for the purpose of financing fisheries and forestries, including loans to commercial fishermen" as a component of the definition for "Loans to finance agricultural production and other loans to farmers." Part II of Schedule RC–C of the Call Report and Schedule SB of the TFR, which serve as the basis of the definition for small business and small farm loans in the regulation, capture both "Loans to finance agricultural production and other loans to farmers" and "Loans secured by farmland."

Q: How should an institution report a home equity line of credit, part of which is for home improvement purposes and part of which is for small business purposes?

A: When an institution originates a home equity line of credit that is for both home improvement and small business purposes, the institution has the option of reporting the portion of the home equity line that is for home improvement purposes as a home improvement loan under HMDA. Examiners would consider that portion of the line when they evaluate the institution's home mortgage lending. When an institution refinances a home equity line of credit into another home equity line of credit, HMDA reporting continues to be optional. If the institution opts to report the refinanced line, the entire amount of the line would be reported as a refinancing and examiners will consider the entire refinanced line when they evaluate the institution's home mortgage lending.

If an institution that has originated a home equity line of credit for both home improvement and small business purposes (or if an institution that has refinanced such a line into another line) chooses not to report a home improvement loan (or a refinancing) under HMDA, and if the line meets the regulatory definition of a "community development loan," the institution should collect and report information on the entire line as a community development loan. If the line does not qualify as a community development loan, the institution has the option of collecting and maintaining (but not reporting) the entire line of credit as "Other Secured Lines/Loans for Purposes of Small Business."

Q: When collecting small business and small farm data for CRA purposes, may an institution collect and report information about loans to small businesses and small farms located outside the United States?

A: At an institution's option, it may collect data about small business and small farm loans located outside the United States; however, it cannot report this data because the CRA data collection software will not accept data concerning loan locations outside the United States.

Q: Is an institution that has no small farm or small business loans required to report under CRA?

A: Each institution subject to data reporting requirements must, at a minimum, submit a transmittal sheet, definition of its assessment area(s), and a record of its community development loans. If the institution does not have community development loans to report, the record should be sent with "0" in the community development loan composite data fields. An institution that has not purchased or originated any small business or small farm loans during the reporting period would not submit the composite loan records for small business or small farm loans.

Q: How should an institution collect and report the location of a loan made to a small business or farm if the borrower provides an address that consists of a post office box number or a rural route and box number?

A: Prudent banking practices and Bank Secrecy Act regulations dictate that institutions know the location of their customers and loan collateral. Further, Bank Secrecy Act regulations specifically state that a post office box is not an acceptable address. Therefore, institutions typically will know the actual location of their borrowers or loan collateral beyond an address consisting only of a post office box.

Many borrowers have street addresses in addition to rural route and box numbers. Institutions should ask their borrowers to provide the street address of the main business facility or farm or the location where the loan proceeds otherwise will be applied. Moreover, in many cases in which the borrower's address consists only of a rural route number, the institution knows the location (i.e., the census tract) of the borrower or loan collateral. Once the institution has this information available, it should assign the census tract to that location (geocode) and report that information as required under the regulation.

However, if an institution cannot determine a rural borrower's street address, and does not know the census tract, the institution should report the borrower's state, county, MSA or metropolitan division, if applicable, and "NA," for "not available," in lieu of a census tract code.

Q: When an institution purchases a small business or small farm loan, in whole or in part, which amount should the institution collect and report—the original amount of the loan or the amount at purchase?

A: When collecting and reporting information on purchased small business and small farm loans, including loan participations, an institution collects and reports the amount of the loan at origination, not at the time of purchase. This is consistent with the Call Report's and TFR's use of the "original amount of the loan" to determine whether a loan should be reported as a "loan to a small business" or a "loan to a small farm" and in which loan size category a loan should be reported. When assessing the volume of small business and small farm loan purchases for purposes of evaluating lending test performance under CRA, however, examiners will evaluate an institution's activity based on the amounts at purchase.

Q: How should an institution collect data about multiple loan originations to the same business?

A: If an institution makes multiple originations to the same business, the loans should be collected and reported as separate originations rather than combined and reported as they are on the Call Report or TFR, which reflect loans outstanding, rather than originations. However, if institutions make multiple originations to the same business solely to inflate artificially the number or volume of loans evaluated for CRA lending performance, the agencies may combine these loans for purposes of evaluation under the CRA.

Q: How should an institution collect data pertaining to credit cards issued to small businesses?

A: If an institution agrees to issue credit cards to a business's employees, all of the credit card lines opened on a particular date for that single business should be reported as one small business loan origination rather than reporting each individual credit card line, assuming the criteria in the "small business loan" definition in the regulation are met. The credit card program's "amount at origination" is the sum of all of the employee/business credit cards' credit limits opened on a particular date. If subsequently issued credit cards increase the small business credit line, the added amount is reported as a new origination.

Q: Which location should an institution record if a small business loan's proceeds are used in a variety of locations?

A: The institution should record the loan location by either the location of the small business borrower's headquarters or the location where the greatest portion of the proceeds are applied, as indicated by the borrower.

Q: When indicating whether a small business borrower had gross annual revenues of $1 million or less, upon what revenues should an institution rely?

A: Generally, an institution should rely on the revenues that it considered in making its credit decision. For example, in the case of affiliated businesses, such as a parent corporation and its subsidiary, if the institution considered the revenues of the entity's parent or a subsidiary corporation of the parent as well, then the institution would aggregate the revenues of both corporations to determine whether the revenues are $1 million or less. Alternatively, if the institution considered the revenues of only the entity to which the loan is actually extended, the institution should rely solely upon whether gross annual revenues are above or below $1 million for that entity. However, if the institution considered and relied on revenues or income of a cosigner or guarantor that is not an affiliate of the borrower, such as a sole proprietor, the institution should not adjust the borrower's revenues for reporting purposes.

Q: If an institution that is not exempt from data collection and reporting does not request or consider revenue information to make the credit decision regarding a small business or small farm loan, must the institution collect revenue information in connection with that loan?

A: No. In those instances, the institution should enter the code indicating "revenues not known" on the individual loan portion of the data collection software or on an internally developed system. Loans for which the institution did not collect revenue information may not be included in the loans to businesses and farms with gross annual revenues of $1 million or less when reporting this data.

Q: ***What gross revenue should an institution use in determining the gross annual revenue of a start-up business?***

A: The institution should use the actual gross annual revenue to date (including $0 if the new business has had no revenue to date). Although a start-up business will provide the institution with pro forma projected revenue figures, these figures may not accurately reflect actual gross revenue and, therefore, should not be used.

Q: ***When indicating the gross annual revenue of small business or small farm borrowers, do institutions rely on the gross annual revenue or the adjusted gross annual revenue of their borrowers?***

A: Institutions rely on the gross annual revenue, rather than the adjusted gross annual revenue, of their small business or small farm borrowers when indicating the revenue of small business or small farm borrowers. The purpose of this data collection is to enable examiners and the public to judge whether the institution is lending to small businesses and small farms or whether it is only making small loans to larger businesses and farms.

The regulation does not require institutions to request or consider revenue information when making a loan; however, if institutions do gather this information from their borrowers, the agencies expect them to collect and rely upon the borrowers' gross annual revenue for purposes of CRA. The CRA regulations similarly do not require institutions to verify revenue amounts; thus, institutions may rely on the gross annual revenue amount provided by borrowers in the ordinary course of business. If an institution does not collect gross annual revenue information for its small business and small farm borrowers, the institution should enter the code "revenues not known." (See Q&A §___.42(a)(4)–2.)

Loan Information Required to Be Reported

A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall report annually by March 1 to the regulatory Agencies in machine-readable form (as prescribed by the regulatory Agencies) the following data for the prior calendar year.

1. ***Small business and small farm loan data.*** For each geography in which the bank originated or purchased a small business or small farm loan, the aggregate number and amount of loans:
   a. With an amount at origination of $100,000 or less,
   b. With amount at origination of more than $100,000 but less than or equal to $250,000,
   c. With an amount at origination of more than $250,000, and
   d. To businesses and farms with gross annual revenues of $1 million or less (using the revenues that the bank considered in making its credit decision);
2. ***Community development loan data.*** The aggregate number and aggregate amount of community development loans originated or purchased; and
3. ***Home mortgage loans***. If the bank is subject to reporting under 12 C.F.R. § 1003, the location of each home mortgage loan application, origination, or purchase outside the MSAs

in which the bank has a home or branch office (or outside any MSA) in accordance with the requirements of 12 C.F.R. § 1003, the HMDA regulation.

Q: ***For small business and small farm loan information that is collected and maintained, what data should be reported?***

A: Each institution that is not exempt from data collection and reporting is required to report in machine-readable form annually by March 1 the following information, aggregated for each census tract in which the institution originated or purchased at least one small business or small farm loan during the prior year:

- The number and amount of loans originated or purchased with original amounts of $100,000 or less;
- The number and amount of loans originated or purchased with original amounts of more than $100,000 but less than or equal to $250,000;
- The number and amount of loans originated or purchased with original amounts of more than $250,000 but not more than $1 million, as to small business loans, or $500,000, as to small farm loans; and
- To the extent that information is available, the number and amount of loans to businesses and farms with gross annual revenues of $1 million or less (using the revenues the institution considered in making its credit decision).

Q: ***What information about community development loans must institutions report?***

A: Institutions subject to data reporting requirements must report the aggregate number and amount of community development loans originated and purchased during the prior calendar year.

Q: ***If a loan meets the definition of a home mortgage, small business, or small farm loan AND qualifies as a community development loan, where should it be reported? Can FHA, VA and SBA loans be reported as community development loans?***

A: Except for multifamily affordable housing loans, which may be reported by retail institutions both under HMDA as home mortgage loans and as community development loans, in order to avoid double counting, retail institutions must report loans that meet the definition of "home mortgage loan," "small business loan," or "small farm loan" only in those respective categories even if they also meet the definition of "community development loan." As a practical matter, this is not a disadvantage for institutions evaluated under the lending, investment, and service tests because any affordable housing mortgage, small business, small farm, or consumer loan that would otherwise meet the definition of "community development loan" will be considered elsewhere in the lending test. Any of these types of loans that occur outside the institution's assessment area can receive consideration under the borrower characteristic criteria of the lending test. See Q&A §___.22(b)(2) & (3)–4.

Limited purpose and wholesale institutions that meet the size threshold for reporting purposes also must report loans that meet the definitions of home mortgage, small business, or small farm loans in those respective categories. However, these institutions must also report any loans from those categories that meet the regulatory definition of "community development loan" as community development loans. There is no double counting because wholesale and limited purpose institutions are not subject to the lending test and, therefore, are not evaluated on their level and distribution of home mortgage, small business, small farm, and consumer loans.

Q: ***When the primary purpose of a loan is to finance an affordable housing project for low- or moderate-income individuals, but, for example, only 40 percent of the units in question will actually be occupied by individuals or families with low or moderate incomes, should the entire loan amount be reported as a community development loan?***

A: It depends. As long as the primary purpose of the loan is a community development purpose as described in Q&A §___.12(h)—8, the full amount of the institution's loan should be included in its reporting of aggregate amounts of community development lending. Even though the entire amount of the loan is reported, as noted in Q&A §___.22(b)(4)—1, examiners may make qualitative distinctions among community development loans on the basis of the extent to which the loan advances the community development purpose.

In addition, if an institution that reports CRA data elects to request consideration for loans that provide mixed-income housing where only a portion of the loan has community development as its primary purpose, such as in connection with a development that has a mixed-income housing component or an affordable housing set-aside required by federal, state, or local government, the institution must report only the pro rata dollar amount of the portion of the loan that provides affordable housing to low- or moderate-income individuals. The pro rata dollar amount of the total activity will be based on the percentage of units that are affordable. See Q&A §___.12(h)—8 for a discussion of "primary purpose" of community development describing the distinction between the types of loans that would be reported in full and those for which only the pro rata amount would be reported.

Q: ***When an institution purchases a participation in a community development loan, which amount should the institution report—the entire amount of the credit originated by the lead lender or the amount of the participation purchased?***

A: The institution reports only the amount of the participation purchased as a community development loan. However, the institution uses the entire amount of the credit originated by the lead lender to determine whether the original credit meets the definition of a "loan to a small business," "loan to a small farm," or "community development loan." For example, if an institution purchases a $400,000 participation in a business credit that has a community development purpose, and the entire amount of the credit originated by the lead lender is over $1 million, the institution would report $400,000 as a community development loan.

Q: ***Should institutions collect and report data about community development loans that are refinanced or renewed?***

A: Yes. Institutions should collect information about community development loans that they refinance or renew as loan originations. Community development loan refinancings and renewals are subject to the reporting limitations that apply to refinancings and renewals of small business and small farm loans. See Q&A §___.42(a)–5.

Q: ***Must institutions that are not required to collect home mortgage loan data by the HMDA collect home mortgage loan data for purposes of the CRA?***

A: No. If an institution is not required to collect home mortgage loan data by the HMDA, the institution need not collect home mortgage loan data under the CRA. Examiners will sample these loans to evaluate the institution's home mortgage lending. If an institution wants to ensure that examiners consider all of its home mortgage loans, the institution may collect and maintain data on these loans.

Optional Data Collection and Maintenance

Consumer loans. A bank may collect and maintain in machine-readable form (as prescribed by the regulatory Agencies) data for consumer loans originated or purchased by the bank for consideration under the lending test. A bank may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, home equity, other secured, and other unsecured. If the bank maintains data for loans in a certain category, it shall maintain data for all loans originated or purchased within that category. The bank shall maintain data separately for each category, including for each loan:

1. A unique number or alphanumeric symbol that can be used to identify the relevant loan file;
2. The loan amount at origination or purchase;
3. The loan location; and
4. The gross annual income of the borrower that the bank considered in making its credit decision.

Q: What are the data requirements regarding consumer loans?

A: There are no data reporting requirements for consumer loans. Institutions may, however, opt to collect and maintain data on consumer loans. If an institution chooses to collect information on consumer loans, it may collect data for one or more of the following categories of consumer loans: motor vehicle, credit card, home equity, other secured, and other unsecured. If an institution collects data for loans in a certain category, it must collect data for all loans originated or purchased within that category. The institution must maintain these data separately for each category for which it chooses to collect data. The data collected and maintained should include for each loan:

- A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
- The loan amount at origination or purchase;
- The loan location; and
- The gross annual income of the borrower that the institution considered in making its credit decision.

Generally, guidance given with respect to data collection of small business and small farm loans, including, for example, guidance regarding collecting loan location data, and whether to collect data in connection with refinanced or renewed loans, will also apply to consumer loans.

Q: If an institution does not consider income when making an underwriting decision in connection with a consumer loan, must it collect income information?

A: No. Further, if the institution routinely collects, but does not verify, a borrower's income when making a credit decision, it need not verify the income for purposes of data maintenance.

Q: May an institution list "0" in the income field on consumer loans made to employees when collecting data for CRA purposes as the institution would be permitted to do under HMDA?

A: Yes.

Q: When collecting the gross annual income of consumer borrowers, do institutions collect the gross annual income or the adjusted gross annual income of the borrowers?

A: Institutions collect the gross annual income, rather than the adjusted gross annual income, of consumer borrowers. The purpose of income data collection in connection with consumer loans is to enable examiners to determine the distribution, particularly in the institution's assessment area(s), of the institution's consumer loans, based on borrower characteristics, including the number and amount of consumer loans to low-, moderate-, middle-, and upper-income borrowers, as determined on the basis of gross annual income.

The regulation does not require institutions to request or consider income information when making a loan; however, if institutions do gather this information from their borrowers, the agencies expect them to collect the borrowers' gross annual income for purposes of CRA. The CRA regulations similarly do not require institutions to verify income amounts; thus, institutions may rely on the gross annual income amount provided by borrowers in the ordinary course of business.

Q: Whose income does an institution collect when a consumer loan is made to more than one borrower?

A: An institution that chooses to collect and maintain information on consumer loans collects the gross annual income of all primary obligors for consumer loans, to the extent that the institution considered the income of the obligors when making the decision to extend credit. Primary obligors include co-applicants and co-borrowers, including co-signers. An institution does not, however, collect the income of guarantors on consumer loans, because guarantors are only secondarily liable for the debt.

Other loan data. At its option, a bank may provide other information concerning its lending performance, including additional loan distribution data.

Q: Schedule RC–C, Part II of the Call Report does not allow banks to report loans for commercial and industrial purposes that are secured by residential real estate, unless the security interest in the nonfarm residential real estate is taken only as an abundance of caution. (See Q&A §___.12(v)–3.) Loans extended to small businesses with gross annual revenues of $1 million or less may, however, be secured by residential real estate. May a bank collect this information to supplement its small business lending data at the time of examination?

A: Yes. If these loans promote community development, as defined in the regulation, the bank should collect and report information about the loans as community development loans. Otherwise, at the bank's option, it may collect and maintain data concerning loans, purchases, and lines of credit extended to small businesses and secured by nonfarm residential real estate for consideration in the CRA evaluation of its small business lending. A bank may collect this information as "Other Secured Lines/Loans for Purposes of Small Business" in the individual loan data. This information should be maintained at the bank but should not be submitted for central reporting purposes.

Q: Must an institution collect data on loan commitments and letters of credit?

A: No. Institutions are not required to collect data on loan commitments and letters of credit. Institutions may, however, provide for examiner consideration information on letters of credit and commitments.

Q: Are commercial and consumer leases considered loans for purposes of CRA data collection?

A: Commercial and consumer leases are not considered small business or small farm loans or consumer loans for purposes of the data collection requirements in 12 CFR___.42(a) & (c)(1). However, if an institution wishes to collect and maintain data about leases, the institution may provide this data to examiners as "other loan data" under 12 CFR___.42(c)(2) for consideration under the lending test.

Data on Affiliate Lending

A bank that elects to have the regulatory Agencies consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain, and report for those loans the data that the bank would have collected, maintained, and reported had the loans been originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared to identify the home mortgage loans reported under 12 C.F.R. § 1003, HMDA regulation, by the affiliate.

Q: If an institution elects to have an affiliate's home mortgage lending considered in its CRA evaluation, what data must the institution make available to examiners?

A: If the affiliate is a HMDA reporter, the institution must identify those loans reported by its affiliate under 12 CFR part 1003 (Regulation C, implementing HMDA). At its option, the institution may provide examiners with either the affiliate's entire HMDA Disclosure Statement or just those portions covering the loans in its assessment area(s) that it is electing to consider. If the affiliate is not required by HMDA to report home mortgage loans, the institution must provide sufficient data concerning the affiliate's home mortgage loans for the examiners to apply the performance tests.

Data on Lending by a Consortium or a Third-Party

A bank that elects to have the regulatory Agencies consider community development loans by a consortium or third-party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the bank would have reported had the loans been originated or purchased by the bank.

Small Banks Electing Evaluation under Lending, Investment, and Service Tests

A bank that qualifies for evaluation under the small bank performance standards but elects evaluation under the lending, investment, and service tests shall collect, maintain, and report the data required for other banks.

Assessment Area Data

A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall collect and report to the regulatory Agencies by March 1 of each year a list for each assessment area showing the geographies within the area.

CRA Disclosure Statement

The regulatory Agencies will prepare annually for each bank that reports data pursuant to this section a CRA disclosure statement that contains, on a state-by-state basis:

1. For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the bank reported a small business or small farm loan:
   a. The number and amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income geographies;
   b. A list grouping each geography according to whether the geography is low-, moderate, middle-, or upper-income;
   c. A list showing each geography in which the bank reported a small business or small farm loan; and
   d. The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;
2. For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 persons in which the bank reported a small business or small farm loan:
   a. The number and amount of small business and small farm loans reported as originated or purchased located in geographies with median income relative to the area median income;
   b. A list grouping each geography in the county or assessment area according to the median income in the geography relative to the area median income;
   c. A list showing each geography in which the bank reported a small business or small farm loan; and
   d. The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;
3. The number and amount of small business and small farm loans located inside each assessment area reported by the bank and the number and amount of small business and small farm loans located outside the assessment area(s) reported by the bank; and
4. The number and amount of community development loans reported as originated or purchased.

Aggregate Disclosure Statements

The regulatory Agencies will prepare annually, for each MSA (including an MSA that crosses a state boundary) and the non-MSA portion of each state, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting requirements. These disclosure statements indicate, for each geography, the number and amount of all small business and small farm loans originated or purchased by reporting institutions, except that the regulatory Agencies may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

Central Data Depositories

The regulatory Agencies will make the aggregate disclosure statements and the individual bank CRA disclosure statements available to the public at central data depositories. The regulatory Agencies will publish a list of the depositories at which the statements are available.

Section 12: Content and Availability of Public File[24]

Information Available to the Public

A bank shall maintain a public file that includes:

1. All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's performance in helping to meet community credit needs and any response to the comments by the bank, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the bank or publication of which would violate specific provisions of law;
2. A copy of the public section of the bank's most recent CRA performance evaluation prepared by the regulatory Agencies. The bank shall place this copy in the public file within 30 business days after its receipt from the regulatory Agencies;
3. A list of the bank's branches, their street addresses, and geographies;
4. A list of branches opened or closed by the bank during the current year and each of the prior two calendar years, their street addresses, and geographies;
5. A list of services (including hours of operation, available loan and deposit products, and transaction fees) generally offered at the bank's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank may include information regarding the availability of alternative systems for delivering retail banking services (e.g., ATMs, ATMs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs);
6. A map of each assessment area showing the boundaries of the area and identifying the geographies contained within the area, either on the map or in a separate list; and
7. Any other information the bank chooses.

Additional Information Available to the Public

Banks Other than Small Banks. A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall include in its public file the following information pertaining to the bank and its affiliates, if applicable, for each of the prior two calendar years:

1. If the bank has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, the number and amount of loans:
    a. To low-, moderate-, middle-, and upper-income individuals;
    b. Located in low-, moderate-, middle-, and upper-income census tracts; and
    c. Located inside the bank's assessment area(s) and outside the bank's assessment area(s); and

24 12 C.F.R. § 25.43, 228.43, 345.43.

2. The bank's CRA disclosure statement. The bank shall place the statement in the public file within three business days of its receipt from the regulatory Agencies.

Banks Required to Report Home Mortgage Disclosure Act (HMDA) Data. A bank required to report home mortgage loan data pursuant to 12 C.F.R. § 1003 (HMDA) shall include in its public file a copy of the HMDA disclosure statement provided by the Federal Financial Institutions Examination Council pertaining to the bank for each of the prior two calendar years. In addition, a bank that elected to have the regulatory Agencies consider the mortgage lending of an affiliate for any of these years shall include in its public file the affiliate's HMDA disclosure statement for those years. The bank shall place the statement(s) in the public file within three business days after its receipt.

Small Banks. A small bank or a bank that was a small bank during the prior calendar year shall include in its public file:

1. The bank's 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
2. The information required for "Banks Other than Small Banks" above, if the bank has elected to be evaluated under the lending, investment, and service tests.

Banks with Strategic Plans. A bank that has been approved to be assessed under a strategic plan shall include in its public file a copy of that plan. A bank need not include information submitted to the regulatory Agencies on a confidential basis in conjunction with the plan.

Banks with Less than Satisfactory Ratings. A bank that received a less than satisfactory rating during its most recent examination shall 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 shall update the description quarterly.

Location of Public Information

A bank shall make available to the public for inspection upon request and at no cost the information required in this section, as follows:

1. At the main office and, if an interstate bank, at one branch office in each state, all information in the public file, and
2. At each branch:
   a. A copy of the public section of the bank's most recent CRA performance evaluation and a list of services provided by the branch, and
   b. Within five calendar days of the request, all the information in the public file relating to the assessment area in which the branch is located.

Copies

Upon request, a bank shall provide copies, either on paper or in another form acceptable to the person making the request, of the information in its public file. The bank may charge a reasonable fee not to exceed the cost of copying and mailing (if applicable).

Updating

Except as otherwise provided in this section, a bank shall ensure that the information required by this section is current as of April 1 of each year.

Q: What happens to comments received by the agencies?

A: Comments received by a Federal financial supervisory agency will be on file at the agency for use by examiners. Those comments are also available to the public unless they are exempt from disclosure under the Freedom of Information Act.

Q: Is an institution required to respond to public comments?

A: No. All institutions should review comments and complaints carefully to determine whether any response or other action is warranted. A small institution subject to the small institution performance standards is specifically evaluated on its record of taking action, if warranted, in response to written complaints about its performance in helping to meet the credit needs in its assessment area(s) (12 CFR___ .26(b)(5)). For all institutions, responding to comments may help to foster a dialogue with members of the community or to present relevant information to an institution's Federal financial supervisory agency. If an institution responds in writing to a letter in the public file, the response must also be placed in that file, unless the response reflects adversely on any person or placing it in the public file violates a law.

Q: May an institution include a response to its CRA performance evaluation in its public file?

A: Yes. However, the format and content of the evaluation, as transmitted by the supervisory agency, may not be altered or abridged in any manner. In addition, an institution that received a less than satisfactory rating during it most recent examination must 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. See 12 CFR___ .43(b)(5). The institution must update the description on a quarterly basis.

Q: Must an institution that elects to have affiliate lending considered include data on this lending in its public file?

A: Yes. The lending data to be contained in an institution's public file covers the lending of the institution's affiliates, as well as of the institution itself, considered in the assessment of the institution's CRA performance. An institution that has elected to have mortgage loans of an affiliate considered must include either the affiliate's HMDA Disclosure Statements for the two prior years or the parts of the Disclosure Statements that relate to the institution's assessment area(s), at the institution's option.

Q: May an institution retain its CRA disclosure statement in electronic format in its public file, rather than printing a hard copy of the CRA disclosure statement for retention in its public file?

A: Yes, if the institution can readily print out its CRA disclosure statement from an electronic medium (e.g., CD, DVD, or Internet Web site) when a consumer requests the public file. If the request is at a branch other than the main office or the one designated branch in each state that holds the complete public file, the institution should provide the CRA disclosure statement in a paper copy, or in another format acceptable to the requestor, within 5 calendar days, as required by 12 CFR___.43(c)(2)(ii).

Q: What is an institution's "main office"?

A: An institution's main office is the main, home, or principal office as designated in its charter.

Q: May an institution maintain a copy of its public file on an intranet or the Internet?

A: Yes, an institution may keep all or part of its public file on an intranet or the Internet, provided that the institution maintains all of the information, either in paper or electronic form, that is required in §___.43 of the regulations. An institution that opts to keep part or all of its public file on an intranet or the Internet must follow the rules in 12 CFR___.43(c)(1) and (2) as to what information is required to be kept at a main office and at a branch. The institution also must ensure that the information required to be maintained at a main office and branch, if kept electronically, can be readily downloaded and printed for any member of the public who requests a hard copy of the information.

Public Notice by Banks[25]

A bank shall provide in the public lobby of its main office and each of its branches the appropriate public notice set forth in Appendix B. Only a branch of a bank having more than one assessment area shall include the bracketed material in the notice for branch offices. Only a bank that is an affiliate of a holding company shall include the next to the last sentence of the notices. A bank shall include the last sentence of the notices only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional banks.

Q: Are there any placement or size requirements for an institution's public notice?

A: The notice must be placed in the institution's public lobby, but the size and placement may vary. The notice should be placed in a location and be of a sufficient size that customers can easily see and read it.

Publication of Planned Examination Schedule[26]

The regulatory Agencies publish at least 30 days in advance of the beginning of each calendar quarter a list of banks scheduled for CRA examinations in that quarter.

25 12 C.F.R. § 25.44, 228.44, 345.44.

26 12 C.F.R. § 25.45, 228.45, 345.45.

Q: Where will the agencies publish the planned examination schedule for the upcoming calendar quarter?

A: The agencies may use the *Federal Register*, a press release, the Internet, or other existing agency publications for disseminating the list of the institutions scheduled for CRA examinations during the upcoming calendar quarter. Interested parties should contact the appropriate Federal financial supervisory agency for information on how the agency is publishing the planned examination schedule.

Q: Is inclusion on the list of institutions that are scheduled to undergo CRA examinations in the next calendar quarter determinative of whether an institution will be examined in that quarter?

A: No. The agencies attempt to determine as accurately as possible which institutions will be examined during the upcoming calendar quarter. However, whether an institution's name appears on the published list does not conclusively determine whether the institution will be examined during that quarter. The agencies may need to defer a planned examination or conduct an unforeseen examination because of scheduling difficulties or other circumstances.

Q: What agency information should be added to the CRA notice form?

A: The following information should be added to the form:

OCC-supervised institutions only: For community banks, the address of the deputy comptroller of the district in which the institution is located should be inserted in the appropriate blank. These addresses can be found at http://www.occ.gov. For banks supervised under the large bank program, insert "Large Bank Supervision, 250 E Street, SW., Washington, DC 20219–0001." For banks supervised under the mid-size/credit card bank program, insert "Mid-Size and Credit Card Bank Supervision, 250 E Street, SW., Washington, DC 20219–0001."

OCC-, FDIC-, and Board-supervised institutions: "Officer in Charge of Supervision" is the title of the responsible official at the appropriate Federal Reserve Bank.

Section 13: Prohibition Against Use of Interstate Branches Primarily for Deposit Production

Introduction

Each of the regulatory Agencies, the Office of the Comptroller of the Currency, the Board of the Federal Reserve Banks, and the Federal Deposit Insurance Corporation, has implemented regulations regarding the prohibition against the use of interstate branches primarily for deposit production. The regulatory citations are:

OCC: 12 C.F.R. §25.62 and §25.63

Federal Reserve: 12 C.F.R. §208.7

FDIC: 12 C.F.R. §369.2 and §369.3

For purposes of this manual, the FDIC version is shown below.

Purpose and Scope

The purpose of this part is to implement section 109 (12 U.S.C. 1835a) of the Riegle Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act).

This applies to any state nonmember bank that has operated a covered interstate branch for at least one year.

This section describes the requirements imposed upon the regulatory Agencies (the OCC, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation) to prescribe uniform rules that prohibit a bank from using any authority to engage in interstate branching pursuant to the Interstate Act, or any amendment made by the Interstate Act to any other provision of law, primarily for the purpose of deposit production.

Definitions

For purposes of this section, the following definitions apply:

Bank

Unless the context indicates otherwise, a bank refers to a state nonmember bank and a foreign bank that is organized under the laws of a foreign country, a territory of the United States, Puerto Rico, Guam, American Samoa, or the Virgin Islands, and that engages directly in the business of banking in a foreign country.

Covered Interstate Branch

Any branch of a state nonmember bank, and any insured branch of a foreign bank licensed by a state, that:

1. Is established or acquired outside the bank's home state under the interstate branching authority granted by the Interstate Act or by any amendment made by the Interstate Act to any other provision of law; or
2. Could not have been established or acquired outside of the bank's home state but for the establishment or acquisition of a branch described in the above paragraph; and
3. Any bank or branch of a bank controlled by an out-of-state bank holding company.

Home State

The state in which the main office of the bank is located when referring to a national bank and the state that chartered the bank when referring to a state bank.

With respect to a bank holding company, the state in which the total deposits of all banking subsidiaries of such company are the largest on the later of July 1, 1966 or the date on which the company becomes a bank holding company under the Bank Holding Company Act.

When referring to a foreign bank, the home state of the foreign bank is the state in which the foreign bank has a branch, agency, subsidiary commercial lending company, or subsidiary bank. If a foreign bank has an office in more than one state, the home state of the foreign bank is the state that is selected to be the home state by the foreign bank or, in default of the foreign bank's selection, by the FRB.

Host State

A state in which a bank establishes or acquires a covered interstate branch.

Host State Loan-To Deposit Ratio

Generally means, with respect to a particular host state, the ratio of total loans in the host state relative to total deposits from the host state for all banks (including institutions covered under the definition of 'bank' in 12 U.S.C. 1813(a)(1)) that have that state as their home state, as updated periodically by the appropriate Federal banking Agencies and made available to the public.

Out of State Bank Holding Company

With respect to any state, a bank holding company whose home state is in another state.

State

Means any state of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Marianas.

Statewide Loan to Deposit Ratio

When referring to a bank this means the ratio of the bank's loans to its deposits in a state in which the bank has one or more covered interstate branches, as determined by the FDIC.

Loan-to-Deposit Ratio Screen

Application of Screen

Beginning no earlier than one year after a bank establishes or acquires a covered interstate branch, the FDIC will consider whether the bank's statewide loan to deposit ratio is less than 50 percent of the relevant host state loan-to-deposit ratio.

Results of Screen

1. If the FDIC determines that the bank's statewide loan-to-deposit ratio is 50 percent or more of the host state loan-to-deposit ratio, no further consideration is required.
2. If the FDIC determines that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank's statewide loan-to-deposit ratio, the FDIC will make a credit needs determination for the bank.

Credit Needs Determination

In general, the FDIC will review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities in the host state served by the bank.

Guidelines

The FDIC will use the following considerations when making the determination:

1. Whether covered interstate branches were formerly part of a failed or failing depository institution;
2. Whether covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

3. Whether covered interstate branches have a high concentration of commercial or credit card lending, trust services, or other specialized activities, including the extent to which the covered interstate branches accept deposits in the host state;
4. The CRA ratings received by the bank, if any;
5. Economic conditions, including the level of loan demand, within the communities served by the covered interstate branches;
6. The safe and sound operation and condition of the bank; and
7. The FDIC's CRA regulations and interpretations of those regulations.

Sanctions

General

If the FDIC determines that a bank is not reasonably helping to meet the credit needs of the communities served by the bank in the host state, and that the bank's statewide loan- to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, the regulator:

1. May order that a bank's covered interstate branch or branches be closed unless the bank provides reasonable assurances to the satisfaction of the FDIC, after an opportunity for public comment, that the bank has an acceptable plan under which the bank will reasonably help to meet the credit needs of the communities served by the bank in the host state; and
2. Will not permit the bank to open a new branch in the host state that would be considered to be a covered interstate branch unless the bank provides reasonable assurances to the satisfaction of the FDIC, after an opportunity for public comment, that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

Notice Prior to Closure of a Covered Interstate Branch

Before exercising its authority to order the bank to close a covered interstate branch, the FDIC will issue to the bank a notice of its intent to order the closure and will schedule a hearing within 60 days of issuing the notice.

Hearing

The FDIC will conduct a hearing in accordance with the Uniform Rules of Practice and Procedure (12 C.F.R. part 308).

Section 14: Examination Procedures for Small Institutions

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COMMUNITY REINVESTMENT ACT

EXAMINATION PROCEDURES FOR SMALL INSTITUTIONS

Examination Scope

1. For institutions with more than one assessment area, identify assessment areas for full scope review. In making those selections, review prior CRA performance evaluations, available community contact materials, and reported lending data and demographic data on each assessment area. Consider factors such as:

   a. The lending opportunities in the different assessment areas;

   b. The level of the institution's lending activity in the different assessment areas, including low- and moderate-income areas, designated disaster areas, or distressed or underserved nonmetropolitan middle-income geographies designated by the Agencies[1] based on (a) rates of poverty, unemployment, and population loss or (b) population size, density, and dispersion;[2]

   c. The number of other institutions in the different assessment areas and the importance of the institution under examination in serving the different areas, particularly any areas with relatively few other providers of financial services;

   d. The existence of apparent anomalies in the reported HMDA data for any particular assessment area(s);

   e. The length of time since the assessment area(s) was last examined using a full scope review;

   f. The institution's prior CRA performance in different assessment areas;

   g. Examiners' knowledge of the same or similar assessment areas; and

   h. Comments from the public regarding the institution's CRA performance.

2. For interstate institutions, a rating must be assigned for each state where the institution

[1] The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

[2] A list of distressed or underserved nonmetropolitan middle-income geographies is available on the FFIEC web site at www.ffiec.gov.

has a branch and for each multi-state MSA or metropolitan division (MD) where the institution has branches in two or more states that comprise that multi-state MSA/MD. Select one or more assessment areas in each state for examination using these procedures.

Performance Context

1. Review standardized worksheets and other agency information sources to obtain relevant demographic, economic and loan data, to the extent available, for each assessment area under review.

2. Obtain for review the Consolidated Reports of Condition (Call Reports) / Thrift Financial Reports (TFR), Uniform Bank Performance Reports (UBPR) / Uniform Thrift Performance Reports (UTPR), annual reports, supervisory reports, and prior CRA evaluations of the institution under examination. Review financial information and the prior CRA evaluations of institutions of similar size that serve the same or similar assessment area(s).

3. Consider any information the institution may provide on its local community and economy, its business strategy, its lending capacity, or that otherwise assists in the evaluation of the institution.

4. Review community contact forms prepared by the regulatory agencies to obtain information that assists in the evaluation of the institution. Contact local community, governmental or economic development representatives to update or supplement this information. Refer to the Community Contact Procedures for more detail.

5. Review the institution's public file for any comments received by the institution or the agency since the last CRA performance evaluation for information that assists in the evaluation of the institution.

6. Document the performance context information gathered for use in evaluating the institution's performance.

Assessment Area

1. Review the institution's stated assessment area(s) to ensure that it:

   a. Consists of one or more MSAs/MDs or contiguous political subdivisions (e.g., counties, cities, or towns);

b. Includes the geographies where the institution has its main office, branches, and deposit-taking ATMs, as well as the surrounding geographies in which the institution originated or purchased a substantial portion of its loans;

c. Consists only of whole census tracts;

d. Consists of separate delineations for areas that extend substantially across MSA/MD or state boundaries unless the assessment area is located in a multi-state MSA/MD;

e. Does not reflect illegal discrimination; and

f. Does not arbitrarily exclude any low- or moderate-income area(s), taking into account the institution's size, branching structure, and financial condition.

2. If an institution's assessment area(s) does not coincide with the boundaries of an MSA/MD or political subdivision(s), assess whether the adjustments to the boundaries were made because the assessment area would otherwise be too large for the institution to reasonably serve, have an unusual configuration, or include significant geographic barriers.

3. If the assessment area(s) fails to comply with the applicable criteria described above, develop, based on discussions with management, a revised assessment area(s) that complies with the criteria. Use this assessment area(s) to evaluate the institution's performance, but do not otherwise consider the revision in determining the institution's rating.

<u>Performance Criteria</u>

Loan-to-Deposit Analysis

1. From data contained in Call Reports / TFRs, or UBPRs / UTPRs, calculate the average loan-to-deposit ratio since the last examination by adding the quarterly loan-to-deposit ratios and dividing by the number of quarters.

2. Evaluate whether the institution's average loan-to-deposit ratio is reasonable in light of information from the performance context including, as applicable, the institution's capacity to lend, the capacity of other similarly-situated institutions to lend in the assessment area(s), demographic and economic factors present in the assessment area(s),

and the lending opportunities available in the institution's assessment area(s).

3. If the loan to deposit ratio does not appear reasonable in light of the performance context, consider the number and the dollar volume of loans sold to the secondary market, or the innovativeness or complexity of community development loans and qualified investments to assess the extent to which these activities compensate for a low loan-to-deposit ratio or supplement the institution's lending performance as reflected in its loan-to-deposit ratio.

4. Discuss the preliminary findings in this section with management.

5. Summarize in workpapers conclusions regarding the institution's loan-to-deposit ratio.

Comparison of Credit Extended Inside and Outside of the Assessment Area(s)

1. If available, review HMDA data, automated loan reports, and any other reports that may have been generated by the institution to analyze the extent of lending inside and outside of the assessment area(s). If a report generated by the institution is used, test the accuracy of the output.

2. If loan reports or data analyzing lending inside and outside of the assessment area(s) are not available or comprehensive, or if their accuracy cannot be verified, use sampling guidelines to select a sample of loans originated, purchased or committed to calculate the percentage (by number and dollar amount) located within the assessment area(s).

3. If the percentage of loans or other lending related activities in the assessment area is less than a majority, then the institution does not meet the standards for "Satisfactory" under this performance criterion. In this case, consider information from the performance context, such as information about economic conditions, loan demand, the institution's size, financial condition, branching network, and business strategies when determining the effect of not meeting the standards for satisfactory for this criterion on the overall rating for the institution.

4. Discuss the preliminary findings in this section with management.

5. Summarize in workpapers conclusions regarding the institution's level of lending or other lending related activities inside and outside of its assessment area(s).

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Distribution of Credit Within the Assessment Area(s)

1. Determine whether the number and income distribution of geographies in the assessment area(s) are sufficient for a meaningful analysis of the geographic distribution of the institution's loans in its assessment area(s).

2. If a geographic distribution analysis of the institution's loans would be meaningful and the necessary geographic information (street address or census tract numbers) is collected by the institution in the ordinary course of its business, determine the distribution of the institution's loans in its assessment area(s) among low-, moderate-, middle-, and upper-income geographies. Where possible, use the same loan reports, loan data, or sample used to compare credit extended inside and outside the assessment area(s).

3. If a geographic analysis of loans in the assessment area(s) is performed, identify groups of geographies, by income categories, in which there is little or no loan penetration. Note that institutions are not expected to lend in every geography.

4. To the extent information about borrower income (individuals) or revenues (businesses) is collected by the institution in the ordinary course of its business, determine the distribution of loans in the assessment area(s) by borrower income and by business revenues. Where possible, use the same loan reports, loan data, or sample used to compare credit extended inside and outside the assessment area(s).

5. Identify categories of borrowers by income or business revenue for which there is little or no loan penetration.

6. If an analysis of the distribution of loans among geographies of different income levels would not be meaningful (e.g., very few geographies in the assessment area(s)) or an analysis of lending to borrowers of different income or revenues could not be performed (e.g., income data are not collected for certain loans), consider possible proxies to use for analysis of the institution's distribution of credit. Possibilities include analyzing geographic distribution by street address rather than geography (if data are available and the analysis would be meaningful) or analyzing the distribution by loan size as a proxy for income or revenues of the borrower.

7. If there are categories of low penetration, form conclusions about the reasons for that low penetration. Consider available information from the performance context, including:

   a. Information about the institution's size, branch network, financial condition, supervisory restrictions (if any) and prior CRA record;

b. Information from discussions with management, loan officers, and members of the community;

c. Information about economic conditions, particularly in the assessment area(s);

d. Information about demographic or other characteristics of particular geographies that could affect loan demand, such as the existence of a prison or college; and

e. Information about other lenders serving the same or similar assessment area(s).

8. Discuss the preliminary findings in this section with management.

9. Summarize in workpapers conclusions concerning the geographic distribution of loans and the distribution of loans by borrower characteristics in the institution's assessment area(s).

Review of Complaints

1. Review all complaints relating to the institution's CRA performance received by the institution (these should all be contained in the institution's public file) and those that were received by its supervisory agency.

2. If there were any complaints, evaluate the institution's record of taking action, if warranted, in response to written complaints about its CRA performance.

3. If there were any complaints, discuss the preliminary findings in this section with management.

4. If there were any complaints, summarize in workpapers conclusions regarding the institution's record of taking action, if warranted, in response to written complaints about its CRA performance. Include the total number of complaints and resolutions with examples that illustrate the nature, responsiveness to, and resolution of, the complaints.

Investments and Services (at the institution's option to enhance a "Satisfactory" rating)

1. If the institution chooses, review its performance in making qualified investments and providing branches and other services and delivery systems that enhance credit availability in its assessment area(s). Performance with respect to qualified investments and services may be used to enhance an institution's overall rating of "Satisfactory", but cannot be used to lower a rating that otherwise would have been assigned.

2. To evaluate the institution's performance in making qualified investments that enhance credit availability in its assessment area(s), consider:

   a. The dollar amount of qualified investments, by type and location;

   b. The impact of those investments on the institution's assessment area(s); and

   c. The innovativeness or complexity of the investments.

3. To evaluate the institution's record of providing branches and other services and delivery systems that enhance credit availability in its assessment area(s), consider:

   a. The number of branches and ATMs located in the institution's assessment area(s);

   b. The number of branches and ATMs located within, or that are readily accessible to, low- and moderate-income geographies compared to those located in, or readily accessible to middle- and upper-income geographies;

   c. The type and level of service(s) offered at branches and ATMs and alternative delivery systems; and

   d. The institution's record of opening and closing branches.

Ratings

1. Group the analyses of the assessment areas examined by MSA[3] and nonmetropolitan areas within each state where the institution has branches. If an institution has branches in two or more states of a multi-state MSA, group the assessment areas that are in that MSA.

2. Summarize conclusions about the institution's performance in each MSA and the nonmetropolitan portion of each state in which an assessment area received a full scope review. If two or more assessment areas in an MSA or in the nonmetropolitan portion of a state received full scope reviews, weigh the different assessment areas considering such factors as:

   a. The significance of the institution's activities in each compared to the institution's

[3] The reference to MSA may also reference MD

overall activities;

b. The lending opportunities in each;

c. The importance of the institution in providing loans to each, particularly in light of the number of other institutions and the extent of their activities in each; and

d. Demographic and economic conditions in each.

3. For assessment areas in MSAs and nonmetropolitan areas that were not examined using the full scope procedures, consider facts and data related to the institution's lending to ensure that performance in those assessment areas is not inconsistent with the conclusions based on the assessment areas that received full scope examinations.

4. For institutions operating in only one multi-state MSA or one state, assign one of the four preliminary ratings -- "Satisfactory", "Outstanding", "Needs to Improve", and "Substantial Noncompliance" -- in accordance with step 6 below. To determine the relative significance of each MSA and nonmetropolitan area to the institution's preliminary rating, consider:

   a. The significance of the institution's activities in each compared to the institution's overall activities;

   b. The lending opportunities in each;

   c. The importance of the institution in providing loans to each, particularly in light of the number of other institutions and the extent of their activities in each; and

   d. Demographic and economic conditions in each.

5. For other institutions, assign one of the four preliminary ratings – "Satisfactory", "Outstanding", "Needs to Improve", and "Substantial Noncompliance" -- for each state in which the institution has at least one branch and for each multi-state MSA in which the institution has branches in two or more states in accordance with step #6 below. To determine the relative significance of each MSA and the nonmetropolitan area on the institution's preliminary state rating, consider:

   a. The significance of the institution's activities in each compared to the institution's overall activities;

   b. The lending opportunities in each;

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c. The importance of the institution in providing loans to each, particularly in light of the number of other institutions and the extent of their activities in each; and

d. Demographic and economic conditions in each.

6. Consult the Small Institution Ratings Matrix and information in workpapers to assign a preliminary rating of:

a. "Satisfactory" if the institution's performance meets each of the standards for a satisfactory rating or if exceptionally strong performance with respect to some of the standards compensates for weak performance in others;

b. "Needs to Improve" or "Substantial Noncompliance" if the institution's performance fails to meet the standards for "Satisfactory" performance. Whether a rating is "Needs to Improve" or "Substantial Noncompliance" will depend upon the degree to which the institution's performance has failed to meet the standards for a "Satisfactory" rating; or

c. "Outstanding" if the institution meets the rating descriptions and standards for "Satisfactory" for each of the five core criteria, and materially exceeds the standards for "Satisfactory" in some or all of the criteria to the extent that an outstanding rating is warranted, or if the institution's performance with respect to the five core criteria generally exceeds "Satisfactory" and its performance in making qualified investments and providing branches and other services and delivery systems in the assessment area(s) supplement its performance under the five core criteria sufficiently to warrant an overall rating of "Outstanding".

7. For an institution with branches in more than one state or multi-state MSA, assign a preliminary rating to the institution as a whole taking into account the institution's record in different states or multi-state MSAs by considering:

a. The significance of the institution's activities in each compared to the institution's overall activities;

b. The lending opportunities in each;

c. The importance of the institution in providing loans to each, particularly in light of the number of other institutions and the extent of their activities in each; and

d. Demographic and economic conditions in each.

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8. Review the results of the most recent compliance examination and determine whether evidence of discriminatory or other illegal credit practices that violate an applicable law, rule, or regulation should lower the institution's overall CRA rating or, if applicable, its CRA rating in any state or multi-state MSA.[4] If evidence of discrimination or other illegal credit practices in any geography by the institution, or in any assessment area by any affiliate whose loans have been considered as part of the institution's lending performance, was found, consider:

   a. The nature, extent, and strength of the evidence of the practices;

   b. The policies and procedures that the institution (or affiliate, as applicable) has in place to prevent the practices;

   c. Any corrective action the institution (or affiliate, as applicable) has taken, or has committed to take, including voluntary corrective action resulting from self-assessment; and

   d. Any other relevant information.

9. Assign a final rating for the institution as a whole and, if applicable, each state in which the institution has at least one branch and each multi-state MSA in which it has branches in two or more states, considering:

   a. The institution's preliminary rating; and

   b. Any evidence of discriminatory or other illegal credit practices (see #8 above).

10. Discuss conclusions with management.

11. Write an evaluation of the institution's performance for the examination report and the public evaluation.

12. Prepare recommendations for a supervisory strategy and for matters that require attention or follow-up activities.

4 "Evidence of discriminatory or other illegal credit practices" includes, but is not limited to: (a) Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act or the Fair Housing Act; (b) Violations of the Home Ownership and Equity Protection Act; (c) Violations of section 5 of the Federal Trade Commission Act; (d) Violations of section 8 of the Real Estate Settlement Procedures Act; and (e) Violations of the Truth in Lending Act regarding a consumer's right of rescission.

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Public File Checklist

1. There is no need to review each branch or each complete public file during every examination. In determining the extent to which the institution's public files should be reviewed, consider the institution's record of compliance with the public file requirements in previous examinations, its branching structure and changes to it since its last examination, complaints about the institution's compliance with the public file requirements, and any other relevant information.

2. In any review of the public file undertaken, determine, as needed, whether branches display an accurate public notice in their lobbies, a complete public file is available in the institution's main office and at least one branch in each state, and the public file available in the main office and in a branch in each state contains:

   a. All written comments from the public relating to the institution's CRA performance and responses to them for the current and preceding two calendar years (except those that reflect adversely on the good name or reputation of any persons other than the institution);

   b. The institution's most recent CRA Public Performance Evaluation;

   c. A map of each assessment area showing its boundaries and, on the map or in a separate list, the geographies contained within the assessment area;

   d. A list of the institution's branches, branches opened and closed during the current and each of the prior two calendar years, and their street addresses and geographies;

   e. The HMDA Disclosure Statement for the prior two calendar years, if applicable;

   f. The institution's loan-to-deposit ratio for each quarter of the prior calendar year;

   g. A quarterly report of the institution's efforts to improve its record if it received a less than satisfactory rating during its most recent CRA examination; and

   h. A list of services (loan and deposit products and transaction fees generally offered, and hours of operation at the institution's branches), including a description of any material differences in the availability or cost of services among locations.

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3. In any branch review undertaken, determine whether the branch provides the most recent public evaluation and a list of services available at the branch or a description of material differences from the services generally available at the institution's other branches.

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CRA RATINGS MATRIX - SMALL INSTITUTIONS

CHARACTERISTIC	OUTSTANDING	SATISFACTORY	NEEDS TO IMPROVE	SUBSTANTIAL NONCOMPLIANCE
Loan-to-deposit ratio	The loan-to-deposit ratio is more than reasonable (considering seasonal variations and taking into account lending related activities) given the institution's size, financial condition, and assessment area credit needs.	The loan-to-deposit ratio is reasonable (considering seasonal variations and taking into account lending related activities) given the institution's size, financial condition, and assessment area credit needs.	The loan-to-deposit ratio is less than reasonable (considering seasonal variations and taking into account lending related activities) given the institution's size, financial condition, and assessment area credit needs.	The loan-to-deposit ratio is unreasonable (considering seasonal variations and taking into account lending related activities) given the institution's size, financial condition, and assessment area credit needs.
Assessment area(s) concentration	A substantial majority of loans and other lending related activities are in the institution's assessment area(s).	A majority of loans and other lending related activities are in the institution's assessment area(s).	A majority of loans and other lending related activities are outside the institution's assessment area(s).	A substantial majority of loans and other lending related activities are outside the institution's assessment area(s).
Geographic distribution of loans	The geographic distribution of loans reflects excellent dispersion throughout the assessment area(s).	The geographic distribution of loans reflects reasonable dispersion throughout the assessment area(s).	The geographic distribution of loans reflects poor dispersion throughout the assessment area(s).	The geographic distribution of loans reflects very poor dispersion throughout the assessment area(s).
Borrower's profile	The distribution of borrowers reflects, given the demographics of the assessment area(s), excellent penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.	The distribution of borrowers reflects, given the demographics of the assessment area(s), reasonable penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.	The distribution of borrowers reflects, given the demographics of the assessment area(s), poor penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.	The distribution of borrowers reflects, given the demographics of the assessment area(s), very poor penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.
Response to substantiated complaints	The institution has taken noteworthy, creative action in response to substantiated complaints about its performance in meeting assessment area credit needs.	The institution has taken appropriate action in response to substantiated complaints about its performance in meeting assessment area credit needs.	The institution has taken inadequate action in response to substantiated complaints about its performance in meeting assessment area credit needs.	The institution is unresponsive to substantiated complaints about its performance in meeting assessment area credit needs.
Investments	The institution's investment record enhances credit availability in its assessment area.	N/A	N/A	N/A
Services	The institution's record of providing branches, ATMs, loan production offices, and/or other services and delivery systems enhances credit availability in its assessment area(s).	N/A	N/A	N/A

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Section 15: Examination Procedures for Intermediate Small Institutions

Intermediate Small Institution Examination Procedures

Examination Scope

For institutions (interstate and intrastate) with more than one assessment area, identify assessment areas for a full scope review. A full scope review is accomplished when examiners complete all of the procedures for an assessment area. For interstate institutions, a minimum of one assessment area from each state, and a minimum of one assessment area from each multistate MSA/MD, must be reviewed using the full scope examination procedures.

1. To identify assessment areas for full scope review, review prior CRA performance evaluations, available community contact materials, and reported lending data and demographic data on each assessment area. Consider factors such as:

    a. The retail lending and community development opportunities in the different assessment areas, particularly areas where the need for credit and community development activities is significant;

    b. The level of the institution's activity in the different assessment areas, including in low- and moderate-income areas, designated disaster areas, or distressed or underserved non-metropolitan middle-income geographies designated by the Agencies[1] based on (a) rates of poverty, unemployment, and population loss or (b) population size, density, and dispersion;[2]

    c. The number of other institutions in the different assessment areas and the importance of the institution under examination in serving the different areas, particularly any areas with relatively few other providers of financial services;

    d. The existence of apparent anomalies in the reported data for any particular assessment area(s);

    e. The length of time since the assessment area(s) was last examined using a full scope review;

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[1] The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

[2] A list of distressed or undeserved non-metropolitan middle-income geographies will be made available on the FFIEC web site at www.ffiec.gov.

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f. The institution's prior CRA performance in different assessment areas;

g. Examiners' knowledge of the same or similar assessment areas; and

h. Comments from the public regarding the institution's CRA performance.

2. Select one or more assessment areas in each state, and one or more assessment areas in any multi-state MSA, for examination using these procedures. This is required because for interstate institutions, a rating must be assigned for each state where the institution has a branch and for each multi-state MSA/MD where the institution has branches in two or more states that comprise that MSA/MD.

Performance Context

1. Review standardized worksheets and other agency information sources to obtain relevant demographic, economic, and loan data, to the extent available, for each assessment area under review.

2. Obtain for review the Consolidated Reports of Condition (Call Reports) / Thrift Financial Reports (TFR), Uniform Bank Performance Reports (UBPR) / Uniform Thrift Performance Reports (UTPR), annual reports, supervisory reports, and prior CRA evaluations of the institution under examination to help understand the institution's ability and capacity, including any limitations imposed by size, financial condition, or statutory, regulatory, economic or other constraints, to respond to safe and sound opportunities in the assessment area(s) for retail loans, and community development loans, investments and services.

3. Discuss with the institution, and consider, any information the institution may provide about its local community and economy, including community development needs and opportunities, its business strategy, its lending capacity, or information that otherwise assists in the evaluation of the institution.

4. Review community contact forms prepared by the regulatory agencies to obtain information that assists in the evaluation of the institution. Contact local community, governmental or economic development

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representatives to update or supplement this information. Refer to the Community Contact Procedures for more detail.

5. Review any comments received by the institution or the agency since the last CRA examination.

6. By reviewing the public evaluations and other financial data, determine whether any similarly situated institutions (in terms of size, financial condition, product offerings, and business strategy) serve the same or similar assessment area(s) and would provide relevant and accurate information for evaluating the institution's CRA performance. Consider, for example, whether the information could help identify:

    a. Lending and community development opportunities available in the institution's assessment area(s) that are compatible with the institution's business strategy and consistent with safe and sound banking practices;

    b. Constraints affecting the opportunities to make safe and sound retail loans, community development loans, qualified investments, and community development services compatible with the institution's business strategy in the assessment area(s); and

    c. Successful CRA-related product offerings or activities utilized by other lenders serving the same or similar assessment area(s).

7. Document the performance context information, particularly community development needs and opportunities, gathered for use in evaluating the institution's performance.

Assessment Area

1. Review the institution's stated assessment area(s) to ensure that it:

    a. Consists of one or more MSAs/MDs or contiguous political subdivisions (e.g., counties, cities, or towns);

    b. Includes the geographies where the institution has its main office, branches, and deposit-taking ATMs, as well as the surrounding geographies in which the institution originated or purchased a substantial portion of its loans;

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c. Consists only of whole census tracts;

d. Consists of separate delineations for areas that extend substantially across MSA/MD or state boundaries unless the assessment area is located in a multistate MSA/MD;

e. Does not reflect illegal discrimination; and

f. Does not arbitrarily exclude any low- or moderate-income area(s), taking into account the institution's size, branching structure, and financial condition.

2. If an institution's assessment area(s) does not coincide with the boundaries of an MSA/MD or political subdivision(s), assess whether the adjustments to the boundaries were made because the assessment area would otherwise be too large for the institution to reasonably serve, have an unusual configuration, or include significant geographic barriers.

3. If the assessment area(s) fails to comply with the applicable criteria described above, develop, based on discussions with management, a revised assessment area(s) that complies with the criteria. Use this assessment area(s) to evaluate the institution's performance, but do not otherwise consider the revision in determining the institution's rating.

Intermediate Small Institution Lending Test Performance Criteria

<u>Loan-to-Deposit Analysis</u>

1. From data contained in Call Reports / TFRs, or UBPRs / UTPRs, calculate the average loan-to-deposit ratio since the last examination by adding the quarterly loan-to-deposit ratios and dividing by the number of quarters.

2. Evaluate whether the institution's average loan-to-deposit ratio is reasonable in light of information from the performance context including, as applicable, the institution's capacity to lend, the capacity of other similarly situated institutions to lend in the assessment area(s), demographic and economic factors present in the assessment area(s), and the lending opportunities available in the institution's assessment area(s).

3. If the loan-to-deposit ratio does not appear reasonable in light of the performance context, consider whether the number and the dollar

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amount of loans sold to the secondary market compensate for a low loan-to-deposit ratio or supplement the institution's lending performance.

4. Summarize in work papers conclusions regarding the institution's loan-to-deposit ratio.

Comparison of Credit Extended Inside and Outside of the Assessment Area(s)

1. If available, review HMDA data, automated loan reports, and any other reports that may have been generated by the institution to analyze the extent of lending inside and outside of the assessment area(s). If a report generated by the institution is used, test the accuracy of the output.

2. If loan reports or data analyzing lending inside and outside of the assessment area(s) are not available or comprehensive, or if their accuracy cannot be verified, use sampling guidelines to select a sample of loans originated, purchased or committed to calculate the percentage (by number and dollar volume) located within the assessment area(s).

3. If the percentage of loans or other lending related activities in the assessment area is less than a majority, then the institution does not meet the standards for "Satisfactory" under this performance criterion. In this case, consider information from the performance context, such as information about economic conditions, loan demand, the institution's size, financial condition, branching network, and business strategies when determining the effect of not meeting the standards for satisfactory for this criterion on the overall rating for the institution.

4. Summarize in work papers conclusions regarding the institution's level of lending or other lending related activities inside and outside of its assessment area(s).

Distribution of Credit within the Assessment Area(s)

1. Determine whether the number and income distribution of geographies in the assessment area(s) are sufficient for a meaningful analysis of the geographic distribution of the institution's loans in its assessment area(s).

2. If a geographic distribution analysis of the institution's loans would be meaningful and the necessary geographic information (street address or census tract number) is collected by the institution in the ordinary course of its business, determine the distribution of the institution's loans in its

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assessment area(s) among low-, moderate-, middle-, and upper-income geographies. Where possible, use the same loan reports, loan data, or sample used to compare credit extended inside and outside the assessment area(s).

3. If a geographic analysis of loans in the assessment area(s) is performed, identify groups of geographies, by income categories, in which there is little or no loan penetration. Note that institutions are not expected to lend in every geography.

4. To the extent information about borrower income (individuals) or revenues (businesses) is collected by the institution in the ordinary course of its business, determine the distribution of loans in the assessment area(s) by borrower income and by business revenues. Where possible, use the same loan reports, loan data, or sample used to compare credit extended inside and outside the assessment area(s).

5. Identify categories of borrowers by income or business revenue for which there is little or no loan penetration.

6. If an analysis of the distribution of loans among geographies of different income levels would not be meaningful (e.g., very few geographies in the assessment area(s)) or an analysis of lending to borrowers of different income or revenues could not be performed (e.g., income data are not collected for certain loans), consider possible proxies to use for analysis of the institution's distribution of credit. Possibilities include analyzing geographic distribution by street address rather than geography (if data are available and the analysis would be meaningful) or analyzing the distribution by loan size as a proxy for income or revenue of the borrower.

7. If there are categories of low penetration, form conclusions about the reasons for that low penetration. Consider available information from the performance context, including:

   a. Information about the institution's size, branch network, financial condition, supervisory restrictions (if any) and prior CRA record;

   b. Information from discussions with management, loan officers, and members of the community;

   c. Information about economic conditions, particularly in the assessment area(s);

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d. Information about demographic or other characteristics of particular geographies that could affect loan demand, such as the existence of a prison or college; and

e. Information about other lenders serving the same or similar assessment area(s).

8. Summarize in work papers conclusions concerning the geographic distribution of loans and the distribution of loans by borrower characteristics in the institution's assessment area(s).

<u>Review of Complaints</u>

1. Review all complaints relating to the institution's CRA performance received by the institution (these should all be contained in the institution's public file) and those that were received by its supervisory agency.

2. If there were any complaints, evaluate the institution's record of taking action, if warranted, in response to written complaints about its CRA performance.

3. If there were any complaints, discuss the preliminary findings in this section with management.

4. If there were any complaints, summarize in work papers conclusions regarding the institution's record of taking action, if warranted, in response to written complaints about its CRA performance. Include the total number of complaints and resolutions with examples that illustrate the nature, responsiveness to, and resolution of, the complaints.

5. Discuss the preliminary findings in the lending test section with management.

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INTERMEDIATE SMALL INSTITUTION LENDING TEST RATINGS MATRIX

CHARACTERISTIC	OUTSTANDING	SATISFACTORY	NEEDS TO IMPROVE	SUBSTANTIAL NONCOMPLIANCE
Loan-to-deposit ratio	The loan-to-deposit ratio is more than reasonable (considering seasonal variations and taking into account lending-related activities) given the institution's size, financial condition, and assessment area credit needs.	The loan-to-deposit ratio is reasonable (considering seasonal variations and taking into account lending-related activities) given the institution's size, financial condition, and assessment area credit needs.	The loan-to-deposit ratio is less than reasonable (considering seasonal variations and taking into account lending-related activities) given the institution's size, financial condition, and assessment area credit needs.	The loan-to-deposit ratio is unreasonable (considering seasonal variations and taking into account lending-related activities) given the institution's size, financial condition, and assessment area credit needs.
Assessment area(s) concentration	A substantial majority of loans and other lending related activities are in the institution's assessment area(s).	A majority of loans and other lending related activities are in the institution's assessment area(s).	A majority of loans and other lending related activities are outside the institution's assessment area(s).	A substantial majority of loans and other lending related activities are outside the institution's assessment area(s).
Geographic distribution of loans	The geographic distribution of loans reflects excellent dispersion throughout the assessment area(s).	The geographic distribution of loans reflects reasonable dispersion throughout the assessment area(s).	The geographic distribution of loans reflects poor dispersion throughout the assessment area(s).	The geographic distribution of loans reflects very poor dispersion throughout the assessment area(s).
Borrower's profile	The distribution of borrowers reflects, given the demographics of the assessment area(s), excellent penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.	The distribution of borrowers reflects, given the demographics of the assessment area(s), reasonable penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.	The distribution of borrowers reflects, given the demographics of the assessment area(s), poor penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.	The distribution of borrowers reflects, given the demographics of the assessment area(s), very poor penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.
Response to substantiated complaints	The institution has taken noteworthy, creative action in response to substantiated complaints about its performance in meeting assessment area credit needs.	The institution has taken appropriate action in response to substantiated complaints about its performance in meeting assessment area credit needs.	The institution has taken inadequate action in response to substantiated complaints about its performance in meeting assessment area credit needs.	The institution is unresponsive to substantiated complaints about its performance in meeting assessment area credit needs.

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Intermediate Small Institution Community Development Test

An institution should appropriately assess the needs in its community, engage in different types of community development activities based on those needs and the institution's capacities, and take reasonable steps to apply its community development resources strategically to meet those needs. The flexibility inherent in the community development test allows intermediate small institutions to focus on meeting the substance of community needs through these activities. Examiners will consider the results of any assessment by the institution of community needs along with information from community, government, civic, and other sources to gain a working knowledge of community needs.

1. Identify the number and amount of the institution's community development loans, qualified investments, and community development services. Obtain this information through discussions with management, HMDA data collected by the institution, as applicable; investment portfolios; any other relevant financial records; and materials available to the public. Include, at the institution's option:

   a. Community development loans, qualified investments, and community development services provided by affiliates, if they are not claimed by any other institution; and

   b. Community development lending by consortia or third parties.

2. Review community development loans, qualified investments, and community development services to verify that they qualify as community development.

3. If the institution participates in community development lending by consortia or third parties, or claims activities provided by affiliates, review records provided to the institution by the consortia or third parties or affiliates to ensure that the community development loans claimed by the institution do not account for more than the institution's share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

4. Considering the institution's capacity and constraints and other information obtained through the performance context review, form conclusions about:

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a. The number and amount of community development loans and qualified investments;

b. The extent to which the institution provides community development services, including the provision and availability of services to low- and moderate-income people, including through branches and other facilities in low- and moderate-income areas.

c. The responsiveness to the opportunities for community development lending, qualified investments, and community development services, considering:

1) The results of any assessment of community development needs and opportunities provided by the institution;

2) The examiner's review of performance context information from community, government, civic, and other sources; and

3) Whether the amount and combination of community development loans, qualified investments, and community development services, along with their qualitative aspects, are responsive to community needs and opportunities.

5. Summarize conclusions regarding the institution's community development performance and retain in the work papers.

INTERMEDIATE SMALL INSTITUTION COMMUNITY DEVELOPMENT TEST RATING MATRIX

OUTSTANDING	SATISFACTORY	NEEDS TO IMPROVE	SUBSTANTIAL NONCOMPLIANCE
The institution's community development performance demonstrates excellent responsiveness to community development needs in its assessment area(s) through community development loans,	The institution's community development performance demonstrates adequate responsiveness to the community development needs of its assessment area(s) through community development loans, qualified investments, and	The institution's community development performance demonstrates poor responsiveness to the community development needs of its assessment area(s) through community development loans, qualified investments, and community development services, as appropriate,	The institution's community development performance demonstrates very poor responsiveness to the community development needs of its assessment area(s) through community development loans,

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qualified investments, and community development services, as appropriate, considering the institution's capacity and the need and availability of such opportunities for community development in the institution's assessment area(s).	community development services, as appropriate, considering the institution's capacity and the need and availability of such opportunities for community development in the institution's assessment area(s).	considering the institution's capacity and the need and availability of such opportunities for community development in the institution's assessment area(s).	qualified investments, and community development services, as appropriate, considering the institution's capacity and the need and availability of such opportunities for community development in the institution's assessment area(s).

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Overall Intermediate Small Institution CRA Rating

1. Group the analyses of the assessment areas examined by MSA[3] and non-MSA areas within each state where the institution has branches. If an institution has branches in two or more states of a multi-state MSA, group the assessment areas that are in that MSA.

2. Summarize conclusions about the institution's performance in each MSA and the non-MSA portion of each state in which an assessment area received a full scope review. If two or more assessment areas in an MSA or in the non-MSA portion of a state received full scope reviews, weigh the different assessment areas considering such factors as:

   a. The significance of the institution's activities in each compared to the institution's overall activities;

   b. The retail lending and community development opportunities in each;

   c. The importance of the institution in providing loans and community development activities to each, particularly in light of the number of other institutions and the extent of their activities in each; and

   d. Demographic and economic conditions in each.

3. For assessment areas in MSAs and non-MSA areas that were not examined using these procedures, consider facts and data related to the institution's lending and community development activities to ensure that performance in those assessment areas is not inconsistent with the conclusions based on the assessment areas which received full scope reviews.

4. For institutions operating in only one multi-state MSA or one state, assign one of the four preliminary ratings – "Satisfactory," "Outstanding," "Needs to Improve," or "Substantial Noncompliance" -- in accordance with step 6 below. To determine the relative significance of each MSA and non-MSA area to the institution's preliminary rating, consider:

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[3] The reference to MSA may also reference MD.

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a. The significance of the institution's activities in each compared to the institution's overall activities;

b. The retail lending and community development opportunities in each;

c. The importance of the institution to each, particularly in light of the number of other institutions and the extent of their activities in each; and

d. Demographic and economic conditions in each.

5. For other institutions, assign one of the four preliminary ratings -- "Satisfactory," "Outstanding," "Needs to Improve," or "Substantial Noncompliance" -- for each state in which the institution has at least one branch and for each multi-state MSA in which the institution has branches in two or more states in accordance with step #6 below. To determine the relative significance of each MSA and the non-MSA area on the institution's preliminary state rating, consider:

   a. The significance of the institution's activities in each compared to the institution's overall activities;

   b. The retail lending and community development opportunities in each;

   c. The importance of the institution in each, particularly in light of the number of other institutions and the extent of their activities in each; and

   d. Demographic and economic conditions in each.

6. Consult the intermediate small institution ratings matrices (lending and community development) and information in work papers to assign a preliminary rating of:

   a. "Satisfactory" if the institution's performance is rated as "Satisfactory" in each test.

   b. "Needs to Improve" or "Substantial Noncompliance," depending upon the degree to which the institution's

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performance has failed to meet the standards for a "Satisfactory" rating on a test; or

c. "Outstanding" if the institution is rated an "Outstanding" on both tests; or "Outstanding" on one test and the extent to which the institution meets or exceeds the "Satisfactory" criteria on the other test.

7. For an institution with branches in more than one state or multi-state MSA, assign a preliminary rating to the institution as a whole taking into account the institution's record in different states or multi-state MSAs by considering:

   a. The significance of the institution's activities in each compared to the institution's overall activities;

   b. The retail lending and community development opportunities in each;

   c. The importance of the institution in providing loans to each, particularly in light of the number of other institutions and the extent of their activities in each; and

   d. Demographic and economic conditions in each.

8. Review the results of the most recent compliance examination and determine whether evidence of discriminatory or other illegal credit practices should lower the institution's overall CRA rating or, if applicable, its CRA rating in any state or multi-state MSA. If evidence of discrimination or other illegal credit practices in any geography by the institution, or in any assessment area by any affiliate whose loans were considered as part of the institution's lending performance, was found, consider:

   a. The nature, extent, and strength of the evidence of the practices;

   b. The policies and procedures that the institution (or affiliate, as applicable) has in place to prevent the practices;

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c. Any corrective action that the institution (or affiliate, as applicable) has taken, or has committed to take, including voluntary corrective action resulting from self-assessment; and

d. Any other relevant information.

9. Assign a final rating for the institution as a whole and, if applicable, each state in which the institution has at least one branch and each multi-state MSA in which it has branches in two or more states, considering:

   a. The institution's preliminary rating; and

   b. Any evidence of discriminatory or other illegal credit practices.

10. Discuss conclusions with management.

11. Write an evaluation of the institution's performance for the examination report and the public evaluation.

12. Prepare recommendations for a supervisory strategy and for matters that require attention or follow-up activities.

Public File Checklist

1. There is no need to review each branch or each complete public file during every examination. In determining the extent to which the institution's public files should be reviewed, consider the institution's record of compliance with the public file requirements in previous examinations, its branching structure and changes to it since its last examination, complaints about the institution's compliance with the public file requirements, and any other relevant information.

2. In any review of the public file undertaken, determine whether branches display an accurate public notice in their lobbies, a complete public file is available in the institution's main office and at least one branch in each state, and the public file(s) in the main office and in each state contain:

   a. All written comments from the public relating to the institution's CRA performance and any responses to them for the current

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and preceding two calendar years (except those that reflect adversely on the good name or reputation of any persons other than the institution);

b. The institution's most recent CRA Performance Evaluation;

c. A map of each assessment area showing its boundaries and, on the map or in a separate list, the geographies contained within the assessment area;

d. A list of the institution's branches, branches opened and closed during the current and each of the prior two calendar years, their street addresses and geographies;

e. A list of services (loan and deposit products and transaction fees generally offered, and hours of operation at the institution's branches), including a description of any material differences in the availability or cost of services between those locations;

f. The institution's loan-to-deposit ratio for each quarter of the prior calendar year;

g. A quarterly report of the institution's efforts to improve its record if it received a less than satisfactory rating during its most recent CRA examination; and

h. HMDA Disclosure Statements for the prior two calendar years for the institution and for each non-depository affiliate the institution has elected to include in assessment of its CRA record, if applicable.

3. In any branch review undertaken, determine whether the branch provides the most recent public evaluation and a list of services generally available at its branches and a description of any material differences in the availability or cost of services at the branch (or a list of services available at the branch).

Section 16: Examination Procedures for Large Institutions

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COMMUNITY REINVESTMENT ACT

EXAMINATION PROCEDURES FOR LARGE INSTITUTIONS

Examination Scope

For institutions (interstate and intrastate) with more than one assessment area, identify assessment areas for a full-scope review. A full-scope review is accomplished when examiners complete all of the procedures for an assessment area. For interstate institutions, a minimum of one assessment area from each state, and a minimum of one assessment area from each multistate metropolitan statistical area/metropolitan division (MSA/MD), must be reviewed using the full-scope examination procedures.

1. Review prior Community Reinvestment Act (CRA) performance evaluations, available community contact materials, Home Mortgage Disclosure Act (HMDA) and CRA performance data including the institution's lending, investment, and service activities by assessment area, the lending of other lenders in those markets, and demographic information from those markets.

2. Select assessment areas for full-scope review by considering the factors below.

    a. The lending, investment, and service opportunities in the different assessment areas, particularly areas where the need for bank credit, investments and services is significant;

    b. The level of the institution's lending, investment, and service activity in the different assessment areas, including in low- and moderate-income areas, designated disaster areas, or distressed or underserved nonmetropolitan middle-income geographies designated by the Agencies[1] based on (a) rates of poverty, unemployment, and population loss or (b) population size, density, and dispersion;[2]

    c. The number of other institutions in the different assessment areas and the importance of the institution under examination in serving the different areas, particularly any areas with relatively few other providers of financial services;

    d. Comments and feedback received from community groups and the public regarding the institution's CRA performance;

    e. The size of the population;

    f. The existence of apparent anomalies in the reported CRA or HMDA data for any particular assessment area(s);

[1] The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

[2] A list of distressed or underserved nonmetropolitan middle-income geographies is available on the Federal Financial Institutions Examination Council (FFIEC) web site at www.ffiec.gov.

g. The length of time since the assessment area(s) was last examined using a full-scope review;

h. The institution's prior CRA performance in different assessment areas;

i. Examiners' knowledge of the same or similar assessment areas; and

j. Issues raised in CRA performance evaluations of other institutions and prior community contacts in the institution's assessment areas or similar assessment areas.

Performance Context

1. Review standardized worksheets and other agency information sources to obtain relevant demographic, economic, and loan data, to the extent available, for each assessment area under review. Compare the data to similar data for the MSA/MD, county, or state to determine how any similarities or differences will help in evaluating lending, investment, and service opportunities and community and economic conditions in the assessment area. Also consider whether the area has housing costs that are particularly high given area median income.

2. Obtain for review the Consolidated Reports of Condition (Call Reports), Uniform Bank Performance Reports (UBPR), annual reports, supervisory reports, and prior CRA evaluations of the institution to help understand the institution's ability and capacity, including any limitations imposed by size, financial condition, or statutory, regulatory, economic or other constraints, to respond to safe and sound opportunities in the assessment area(s) for retail loans, and community development loans, investments and services.

3. Discuss with the institution, and consider, any information the institution may provide about its local community and economy, including community development needs and opportunities, its business strategy, its lending capacity, or information that otherwise assists in the evaluation of the institution.

4. Review community contact forms prepared by the regulatory agencies to obtain information that assists in the evaluation of the institution. Contact local community, governmental or economic development representatives to update or supplement this information. Refer to the Community Contact Procedures for more detail.

5. Review the institution's public file and any comments received by the institution or the agency since the last CRA performance evaluation for information that assists in the evaluation of the institution.

6. By reviewing performance evaluations and other financial data, determine whether any similarly situated institutions (in terms of size, financial condition, product offerings, and business strategy) serve the same or similar assessment area(s) and would provide relevant and

accurate information for evaluating the institution's CRA performance. Consider, for example, whether the information could help identify:

a. Lending and community development opportunities available in the institution's assessment area(s) that are compatible with the institution's business strategy and consistent with safe and sound banking practices;

b. Constraints affecting the opportunities to make safe and sound retail loans, community development loans, qualified investments and community development services compatible with the institution's business strategy in the assessment area(s); and

c. Successful CRA-related product offerings or activities utilized by other lenders serving the same or similar assessment area(s).

7. Document the performance context information, particularly community development needs and opportunities, gathered for use in evaluating the institution's performance.

Assessment Area

1. Review the institution's stated assessment area(s) to ensure that it:

   a. Consists of one or more MSAs/MDs or contiguous political subdivisions (i.e., counties, cities, or towns);

   b. Includes the geographies where the institution has its main office, branches, and deposit-taking (Automated Teller Machines) ATMs, as well as the surrounding geographies in which the institution originated or purchased a substantial portion of its loans;

   c. Consists only of whole census tracts;

   d. Consists of separate delineations for areas that extend substantially across MSA/MD or state boundaries unless the assessment area is in a multistate MSA/MD;

   e. Does not reflect illegal discrimination; and

   f. Does not arbitrarily exclude any low- or moderate-income area(s) taking into account the institution's size, branching structure, and financial condition.

2. If the assessment area(s) does not coincide with the boundaries of an MSA/MD or political subdivision(s), assess whether the adjustments to the boundaries were made because the assessment area would otherwise be too large for the institution to reasonably serve, have an unusual configuration, or include significant geographic barriers.

3. If the assessment area(s) fails to comply with the applicable criteria described above, develop, based on discussions with management, a revised assessment area(s) that complies with the

criteria. Use this assessment area(s) to evaluate the institution's performance, but do not otherwise consider the revision in determining the institution's rating.

Lending, Investment, and Service Tests for Large Retail Institutions

Lending Test

1. Identify the institution's loans to be evaluated by reviewing:

    a. The most recent HMDA and CRA Disclosure Statements, the interim HMDA Loan Application Register (LAR), and any interim CRA loan data collected by the institution;

    b. A sample of consumer loans if consumer lending represents a substantial majority of the institution's business so that an accurate conclusion concerning the institution's lending record could not be reached without a review of consumer loans;

    c. Any other information the institution chooses to provide, such as small business loans secured by non-farm residential real estate, home equity loans not reported for HMDA, unfunded commitments, any information on loans outstanding, and loan distribution analyses conducted by or for the institution, including any explanations for identified concerns or actions taken to address them.

2. Test a sample of loan files to verify the accuracy of data collected and/or reported by the institution. In addition, ensure that:

    a. Affiliate loans reported by the institution are not also attributed to the lending record of another affiliate subject to CRA. This can be accomplished by requesting the institution to identify how loans are attributed and how it ensures that all the loans within a given lending category (e.g., small business loans, home purchase loans, motor vehicle, credit card, home equity, other secured, and other unsecured loans) in a particular assessment area are reported for all of the institution's affiliates if the institution elects to count any affiliate loans;

    b. Loans reported as community development loans (including those originated or purchased by consortia or third parties) meet the definition of community development loans. Determine whether community development loans benefit the institution's assessment area(s) or a broader statewide or regional area that includes the institution's assessment area(s). Except for multifamily loans, ensure that community development loans have not also been reported by the institution or an affiliate as HMDA, small business or farm, or consumer loans. Review records provided to the institution by consortia or third parties or affiliates to ensure that the amount of the institution's third party or consortia or affiliate lending does not account for more than the institution's percentage share (based on the level of its participation or investment) of the total loans originated by the consortia, third parties, or affiliates;

c. All consumer loans in a particular loan category have been included when the institution collects and maintains the data for one or more loan categories and has elected to have the information evaluated.

3. Identify the volume, both in number and dollar amount, of each type of loan being evaluated that the institution has made or purchased within its assessment area. Evaluate the institution's lending volume considering the institution's resources and business strategy and other information from the performance context, such as population, income, housing, and business data. Note whether the institution conducts certain lending activities in the institution and other activities in an affiliate in a way that could inappropriately influence an evaluation of borrower or geographic distribution.

4. Review any analyses prepared by or for and offered by the institution for insight into the reasonableness of the institution's geographic distribution of lending. Test the accuracy of the data and determine if the analyses are reasonable. If areas of low or no penetration were identified, review explanations and determine whether action was taken to address disparities, if appropriate.

5. Supplement with an independent analysis of geographic distribution as necessary. As applicable, determine the extent to which the institution is serving geographies in each income category and whether there are conspicuous gaps unexplained by the performance context. Conclusions should recognize that institutions are not required to lend in every geography. The analysis should consider:

   a. (Excluding affiliate lending) the number, dollar amount, and percentage of the institution's loans located within any of its assessment areas, as well as the number, dollar amount, and percentage of the institution's loans located outside any of its assessment areas;

   b. The number, dollar amount, and percentage of each type of loan in the institution's portfolio in each geography, and in each category of geography (low-, moderate-, middle-, and upper-income);

   c. The number of geographies penetrated in each income category, as determined in step (b), and the total number of geographies in each income category within the assessment area(s);

   d. The number and dollar amount of its home purchase, home refinancing, and home improvement loans, respectively in each geography compared to the number of one-to-four family owner-occupied units in each geography;

   e. The number and dollar amount of multifamily loans in each geography compared to the number of multifamily structures in each geography;

   f. The number and dollar amount of small business and farm loans in each geography compared to the number of small businesses/farms in each geography;

g. Whether any gaps exist in lending activity for each income category, by identifying groups of contiguous geographies that have no loans or those with low penetration relative to the other geographies.

6. If there are groups of contiguous geographies within the institution's assessment area with abnormally low penetration, the examiner may determine if an analysis of the institution's performance compared to other lenders for home mortgage loans (using reported HMDA data) and for small businesses and small farm loans (using data provided by lenders subject to CRA) would provide an insight into the institution's lack of performance in those areas. This analysis is not required, but may provide insight if:

   a. The reported loan category is substantially related to the institution's business strategies;

   b. The area under analysis substantially overlaps the institution's assessment area(s);

   c. The analysis includes a sufficient number and volume of transactions, and an adequate number of lenders with assessment area(s) substantially overlapping the institution's assessment area(s);

   d. The assessment area data is free from anomalies that can cause distortions such as dominant lenders that are not subject to the CRA, a lender that dominates a part of an area used in calculating the overall lending, or there is an extraordinarily high level of performance, in the aggregate, by lenders in the institution's assessment area(s).

7. Using the analysis from step number 6, form a conclusion as to whether the institution's abnormally low penetration in certain areas should constitute a negative consideration under the geographic distribution performance criteria of the lending test by considering:

   a. The institution's share of reported loans made in low- and moderate-income geographies versus its share of reported loans made in middle- and upper-income geographies within the assessment area(s);

   b. The number of lenders with assessment area(s) substantially overlapping the institution's assessment area(s);

   c. The reasons for penetration of these areas by other lenders, if any, and the lack of penetration by the institution being examined that are developed through discussions with management and the community contact process;

   d. The institution's ability to serve the subject area in light of (i) the demographic characteristics, economic condition, credit opportunities and demand; and (ii) the institution's business strategy and its capacity and constraints;

   e. The degree to which penetration by the institution in the subject area in a different reported loan category compensates for the relative lack of penetration in the subject area; and

f. The degree to which penetration by the institution in other low- and moderate-income geographies within the assessment area(s) in reported loan categories compensates for the relative lack of penetration in the subject area.

8. Review any analyses prepared by or for and offered by the institution for insight into the reasonableness of the institution's distribution of lending by borrower characteristics. Test the accuracy of the data and determine if the analyses are reasonable. If areas of low or no penetration were identified, review explanations and determine whether action was taken to address disparities, if appropriate.

9. Supplement with an independent analysis of the distribution of the institution's lending within the assessment area by borrower characteristics as necessary and applicable. Consider factors such as:

   a. The number, dollar amount, and percentage of the institution's total home mortgage loans and consumer loans, if included in the evaluation, to low-, moderate-, middle-, and upper-income borrowers;

   b. The percentage of the institution's total home mortgage loans and consumer loans, if included in the evaluation, to low-, moderate-, middle-, and upper-income borrowers compared to the percentage of the population within the assessment area who are low-, moderate-, middle-, and upper-income;

   c. The number and dollar amount of small loans originated to businesses or farms by loan size of less than $100,000; at least $100,000 but less than $250,000; and at least $250,000 but less than or equal to $1,000,000;

   d. The number and amount of the small loans to businesses or farms that had annual revenues of less than $1 million compared to the total reported number and amount of small loans to businesses or farms; and

   e. If the institution adequately serves borrowers within the assessment area(s), whether the distribution of the institution's lending outside of the assessment area based on borrower characteristics would enhance the assessment of the institution's overall performance.

10. Review data on the institution's community development loans using information obtained in the performance context procedures, especially with regard to community credit needs and institutional capacity, to determine:

    a. The number and amount of community development loans in:

       i. The institution's assessment area(s); or

       ii. The broader statewide or regional area that includes the assessment area(s) that support organizations or activities with a purpose, mandate, or function that includes serving the geographies or individuals located within the institution's assessment area(s).

b. The extent to which community development lending opportunities have been available to the institution;

c. The institution's responsiveness to the opportunities for community development lending;

d. The extent of leadership the institution has demonstrated in community development lending; and

e. The innovativeness or complexity involved.

11. If the institution has been responsive to community development needs and opportunities in its assessment area(s) based on the analysis in step number 10, consider:

   a. The number and dollar amount of community development loans in the broader statewide or regional area that includes the assessment area(s), but:

      i. Will not benefit the assessment area(s); and

      ii. Do not support organizations or activities with a purpose, mandate, or function that includes serving geographies or individuals located within the institution's assessment area(s).

   b. The extent to which these loans enhance the institution's performance.

   Note: Refer to the appendix for additional guidance on addressing activities at the state or multistate MSA, or institution level.

12. Evaluate whether the institution's performance under the lending test is enhanced by offering innovative loan products or products with more flexible terms to meet the credit needs of low- and moderate-income individuals or geographies. Consider:

   a. The degree to which the loans serve low- and moderate-income creditworthy borrowers in new ways or loans serve groups of creditworthy borrowers not previously served by the institution; and

   b. The success of each product, including number and dollar amount of loans originated during the review period.

13. Discuss with management the preliminary findings in this section.

14. Summarize your conclusions regarding the institution's lending performance under the following criteria:

a. Lending activity.

b. Geographic distribution.

c. Borrower characteristics.

d. Community development lending.

e. Use of innovative or flexible lending practices.

15. Prepare comments for the performance evaluation and the Compliance examination report. Refer to the appendix for guidance on addressing community development activities in the performance evaluation.

Investment Test

1. Identify qualified investments by reviewing the institution's investment portfolio, and at the institution's option, its affiliate's investment portfolio. As necessary, obtain a prospectus, or other information that describes the investment(s) and the geographic area(s) or population(s) served. This review should encompass qualified investments, including investments in a broader statewide or regional area and in nationwide funds, that were made since the previous examination (including those that have been sold or have matured) and may consider qualified investments made prior to the previous examination still outstanding. Also, consider qualifying grants, donations, or in-kind contributions of property since the last examination that are for community development purposes. Determine:

   a. Whether the investments have been considered under the lending or service tests; and

   b. Whether an affiliate's investments, if considered, have been claimed by another institution.

2. Evaluate investment performance using information obtained in the performance context procedures, especially with regard to community needs and institutional capacity. Determine:

   a. The number and amount of qualified investments in:

      i. The institution’s assessment area(s); or

      ii. The broader statewide or regional area that includes the assessment area(s) that support organizations or activities with a purpose, mandate, or function that includes serving the geographies or individuals located within the institution’s assessment area(s).

   Note: A large institution with a nationwide branch footprint typically has many assessment areas in many states. Investments in nationwide funds are likely to benefit such an institution’s assessment area(s), or the broader statewide or regional area that includes its assessment area(s), and provide that institution with the opportunity to match its investments with the geographic scope of its business.

b. The extent to which qualified investment opportunities have been available to the institution;

c. The institution's responsiveness to opportunities for qualified investments;

d. The use of any innovative or complex investments, in particular those that are not routinely provided by other investors; and

e. The degree to which investments serve low- and moderate-income areas or individuals, designated disaster areas, or distressed or underserved nonmetropolitan middle-income geographies, and the available opportunities for qualified investments.

3. If the institution has been responsive to community development needs and opportunities in its assessment area(s) based on the analysis in step number 2, consider:

   a. The number and dollar amount of qualified investments in the broader statewide or regional area that includes the assessment area(s), but:

      i. Will not benefit the assessment area(s); and

      ii. Do not support organizations or activities with a purpose, mandate, or function that includes serving geographies or individuals located within the institution's assessment area(s).

   b. The extent to which these investments enhance the institution's performance.

   Note: Refer to the appendix for additional guidance on addressing activities at the state or multistate MSA, or institution level.

4. Discuss with management the preliminary findings in this section.

5. Summarize conclusions about the institution's investment performance after considering:

   a. The number and dollar amount of qualified investments;

   b. The innovativeness and complexity of qualified investments;

   c. The degree to which these qualified investments are not routinely provided by other private investors; and

   d. The responsiveness of qualified investments to available opportunities.

6. Prepare comments for the performance evaluation and the Compliance examination report. Refer to the appendix for guidance on addressing community development activities in the performance evaluation.

Service Test

Retail Banking Services

1. Determine from information available in the institution's public file:

    a. The distribution of the institution's branches among low-, moderate-, middle-, and upper-income geographies in the institution's assessment area(s); and

    b. Banking services, including hours of operation and available loan and deposit products.

2. Obtain the institution's explanation for any material differences in the hours of operations of, or services available at, branches within low-, moderate-, middle-, and upper-income geographies in the institution's assessment area(s).

3. Evaluate the institution's record of opening and closing branch offices since the previous examination and information that could indicate whether changes have had a positive or negative effect, particularly on low- and moderate-income geographies or individuals.

4. Evaluate the accessibility and use of alternative systems for delivering retail banking services, (e.g., proprietary and non-proprietary ATMs, loan production offices (LPOs), banking by telephone or computer, and bank-at-work or by-mail programs) in low- and moderate-income geographies and to low- and moderate-income individuals.

5. Assess the quantity, quality and accessibility of the institution's service-delivery systems provided in low-, moderate-, middle-, and upper-income geographies. Consider the degree to which services are tailored to the convenience and needs of each geography (e.g., extended business hours, including weekends, evenings or by appointment, providing bi-lingual services in specific geographies, etc.).

Community Development Services

6. Identify the institution's community development services including, at the institution's option, services through affiliates. Hold discussions with management and review available materials. Determine:

    a. Whether services have been considered under the lending or investments tests: and

    b. If provided by affiliates of the institution, services are not claimed by other affiliated institutions.

7. Evaluate performance using information obtained in the performance context procedures, especially with regard to community needs and institutional capacity. Determine:

   a. The extent of community development services provided in:

      i. The institution's assessment area(s); or

      ii. The broader statewide or regional area that includes the assessment area(s) that support organizations or activities with a purpose, mandate, or function that includes serving the geographies or individuals located within the institution's assessment area(s).

   b. Their innovativeness, including whether they serve low- or moderate-income customers in new ways or serve groups of customers not previously served; and

   c. The degree to which they serve low- or moderate-income areas or individuals and their responsiveness to available opportunities for community development services.

8. If the institution has been responsive to community development needs and opportunities in its assessment area(s) based on the analysis in step number 7, consider:

   a. The extent of community development services in the broader statewide or regional area that includes the assessment area(s), but:

      i. Will not benefit the assessment area(s); and

      ii. Do not support organizations or activities with a purpose, mandate, or function that includes serving geographies or individuals located within the institution's assessment area(s).

   b. The extent to which these services enhance the institution's performance.

   Note: Refer to the appendix for additional guidance on addressing activities at the state or multistate MSA, or institution level.

9. Discuss with management the preliminary findings.

10. Summarize conclusions about the institution's system for delivering retail banking and community development services, considering:

    a. The distribution of branches among low-, moderate-, middle-, and upper-income geographies;

    b. The institution's record of opening and closing branches, particularly branches located in low- or moderate-income geographies or primarily serving low- or moderate-income individuals;

c. The availability and effectiveness of alternative systems for delivering retail banking services;

d. The extent to which the institution provides community development services;

e. The innovativeness and responsiveness of community development services; and

f. The range and accessibility of services provided in low-, moderate-, middle-, and upper-income geographies.

11. Prepare comments for the performance evaluation and the Compliance examination report. Refer to the appendix for guidance on addressing community development activities in the performance evaluation.

Ratings

1. Group the analyses of the assessment areas examined by MSA[3] and nonmetropolitan areas within each state where the institution has branches. If an institution has branches in two or more states of a multistate MSA, group the assessment areas that are in that multistate MSA.

2. Summarize conclusions regarding the institution's performance in each MSA and nonmetropolitan portion of each state with an assessment area that was examined using these procedures. If two or more assessment areas in an MSA or in a nonmetropolitan portion of a state were examined using these procedures, determine the relative significance of the institution's performance in each assessment area by considering:

   a. The significance of the institution's lending, qualified investments, and lending-related services in each compared to:

      i. The institution's overall activities;

      ii. The number of other institutions and the extent of their activities; and

      iii. The lending, investment, and service opportunities in each.

   b. Demographic and economic conditions in each.

3. Evaluate the institution's performance in those assessment area(s) not selected for examination using the full-scope procedures.

[3] The reference to MSA may also reference MD.

a. Revisit the demographic and lending, investment, and service data considered in scoping the examination. Also, consider the institution's operations (branches, lending portfolio mix, etc.) in the assessment area(s).

b. Through a review of the public file(s), consider any services that are customized to the assessment area(s).

c. Consider any other information provided by the institution (e.g., CRA self-assessment) regarding its performance in the area.

4. For MSAs, and the nonmetropolitan portion of the state, where one or more assessment areas were examined using the full-scope procedures, ensure that performance in the assessment area(s) not examined using the full-scope procedures is consistent with the conclusions based on the assessment area(s) examined in step 2, above. Select one of the following options for inclusion in the performance evaluation:

   a. The institution's [lending, investment, service] performance in [the assessment area/these assessment areas] is consistent with the institution's [lending, investment, service] performance in the assessment areas within [the MSA/nonmetropolitan portion of the state] that were reviewed using the examination procedures.

   b. The institution's [lending/investment/service] performance in [the assessment area/these assessment areas] [exceeds/is below] the [lending/investment/service] performance in the assessment areas within [the MSA/nonmetropolitan portion of the state] that were reviewed using the examination procedures; however, it does not change the conclusion for the [MSA/nonmetropolitan portion of the state].

5. For MSA, and nonmetropolitan portions of the state, where no assessment area was examined using the full-scope procedures, form a conclusion regarding the institution's lending, investment, and service performance in the assessment area(s). When there are several assessment areas in the MSA, or the nonmetropolitan portion of the state, form a conclusion regarding the institution's performance in the MSA, or the nonmetropolitan portion of the state. Determine the relative significance of the institution's performance in each assessment area within the MSA, or the nonmetropolitan portion of the state, by considering:

   a. The significance of the institution's lending, qualified investments, and lending-related services in each compared to the institution's overall activities.

   b. Demographic and economic conditions in each.

6. Also, select one of the following options for inclusion in the performance evaluation:

   a. The institution's [lending, investment, service] performance in [the assessment area/these assessment areas] is consistent with the institution's [lending, investment, service] performance [overall/in the state].

b. The institution's [lending/investment/service] performance in [the assessment area/these assessment areas] [exceeds/is below] the [lending/investment/service] performance for the [institution/state], however, it does not change the [institution's/state] rating.

7. Determine the relative significance of each MSA and nonmetropolitan area to the institution's overall performance (institutions operating in one state) or statewide or multistate MSA performance (institutions operating in more than one state). Consider:

   a. The significance of the institution's lending, qualified investments, and lending-related services in each compared to:

      i. The institution's overall activities;

      ii. The number of other institutions and the extent of their activities; and

      iii. The lending, investment, and service opportunities in each.

   b. Demographic and economic conditions in each.

8. When determining the state or multistate MSA rating, as applicable, consider:

   a. Community development loans and services and qualified investments in the institution's assessment area(s) in the state or multistate MSA;

   b. Community development loans and services and qualified investments:

      i. In the broader statewide or regional area that includes the institution's assessment area(s) in the state or multistate MSA; and

      ii. That support organizations or activities with a purpose, mandate, or function that includes serving individuals or geographies in the institution's assessment area(s); and

   c. If the institution has been responsive to community development needs and opportunities in its assessment area(s) based on the analysis in steps 8a and 8b, consider any community development loans and services and qualified investments in the broader statewide or regional area that includes the institution's assessment area(s) in the state or multistate MSA that:

      i. Will not benefit the assessment area(s); and

      ii. Do not support organizations or activities with a purpose, mandate, or function that includes serving geographies or individuals located within the institution's assessment area(s).

9. Using the Component Test Ratings chart, below, assign component ratings that reflect the institution's lending, investment, and service performance. In the case of an institution with branches in just one state, one set of component ratings will be assigned to the institution. In the case of an institution with branches in two or more states and multistate MSAs, component ratings will be assigned for each state or multistate MSA reviewed.

COMPONENT TEST RATINGS	**Points for Lending**	**Points for Investment**	**Points for Service**
Outstanding	12 Points	6 Points	6 Points
High Satisfactory	9 Points	4 Points	4 Points
Low Satisfactory	6 Points	3 Points	3 Points
Needs To Improve	3 Points	1 Point	1 Point
Substantial Noncompliance	0 Points	0 Points	0 Points

10. Assign a preliminary composite rating for the institutions operating in only one state and a preliminary rating for each state or multistate MSA reviewed for institutions operating in more than one state. In assigning the rating, sum the numerical values of the component test ratings for the lending, investment and service tests and refer to the chart, below. No institution, however, may receive an assigned rating of "Satisfactory" or higher unless it receives a rating of at least "Low Satisfactory" on the lending test. In addition, an institution's assigned rating can be no more than three times the score on the lending test.

Composite Rating	**Points Needed**
Outstanding	20 Points or over
Satisfactory	11 through 19 Points
Needs To Improve	5 through 10 Points
Substantial Noncompliance	0 through 4 Points

11. Consider an institution's past performance if the prior rating was "Needs to Improve." If the poor performance has continued, an institution could be considered for a "Substantial Noncompliance" rating.

12. For institutions with branches in more than one state or multistate MSA, assign a preliminary overall rating.

    a. To determine the relative importance of each state and multistate MSA to the institution's overall rating, consider:

        i. The significance of the institution's lending, qualified investments, and lending-related services in each compared to:

            1. The institution's overall activities;

            2. The number of other institutions and the extent of their activities in each; and

            3. The lending, investment, and service opportunities in each.

ii. Demographic and economic conditions in each.

b. Consider the community development loans and services and qualified investments that meet the geographic requirements and that have not been considered in assigning state or multistate MSA ratings. For example, a qualified investment in a regional or nationwide fund that meets the geographic requirements and benefits more than one state, but was not considered because the benefits are not attributable to a particular state or multistate MSA, would be considered at the overall institution level.

13. Review the results of the most recent compliance examination and determine whether evidence of discriminatory or other illegal credit practices that violate an applicable law, rule, or regulation should lower the institution's preliminary overall CRA rating, or the preliminary CRA rating for a state or multistate MSA.[4] If evidence of discrimination or other illegal credit practices by the institution in any geography, or in any assessment area by any affiliate whose loans have been considered as part of the bank's lending performance, was found, consider the following:

a. The nature, extent, and strength of the evidence of the practices;

b. The policies and procedures that the institution (or affiliate, as applicable) has in place to prevent the practices;

c. Any corrective action the institution (or affiliate, as applicable) has taken, or has committed to take, including voluntary corrective action resulting from self-assessment; and

d. Any other relevant information.

14. Assign final overall rating to the institution. Consider:

a. The preliminary rating; and

15. Any evidence of discriminatory or other illegal credit practices, and discuss conclusions with management.

16. Write comments and conclusions, and create charts and tables reflecting area demographics, the institution's operation and its lending, investment and service activity in each assessment area for inclusion in the performance evaluation.

[4] "Evidence of discriminatory or other illegal credit practices" includes, but is not limited to: (a) Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act or the Fair Housing Act; (b) Violations of the Home Ownership and Equity Protection Act; (c) Violations of section 5 of the Federal Trade Commission Act; (d) Violations of section 8 of the Real Estate Settlement Procedures Act; and (e) Violations of the Truth in Lending Act regarding a consumer's right of rescission.

17. Prepare recommendations for supervisory strategy and matters that require attention for follow-up activities.

Public File Checklist

1. There is no need to review each branch or each complete public file during every examination. In determining the extent to which the institution's public files will be reviewed, consider the institution's record of compliance with the public file requirements in previous examinations; its branching structure and changes to it since its last examination; complaints about the institution's compliance with the public file requirements, and any other relevant information.

2. In any review of the public file undertaken, determine, as needed, whether branches display an accurate public notice in their lobbies and the file(s) in the main office and in each state contains:

   a. All written comments from the public relating to the institution's CRA performance and responses to them for the current and preceding two calendar years (except those that reflect adversely on the good name or reputation of any persons other than the institution);

   b. The institution's most recent CRA performance evaluation;

   c. A map of each assessment area showing its boundaries, and on the map or in a separate list, the geographies contained within the assessment area;

   d. A list of the institution's branches, branches opened and closed during the current and each of the prior two calendar years, and their street addresses and geographies;

   e. A list of services (loan and deposit products and transaction fees generally offered, and hours of operation at the institution's branches), including a description of any material differences in the availability or cost of services between these locations;

   f. The institution's CRA disclosure statements for the prior two calendar years;

   g. A quarterly report of the institution's efforts to improve its record if it received a less than satisfactory rating in its most recent CRA performance evaluation;

   h. The HMDA Disclosure Statement for the prior two calendar years for the institution and for each non-depository affiliate the institution has elected to include in assessment of its CRA record, if applicable; and

   i. If applicable, the number and amount of consumer loans made to the four income categories of borrowers and geographies (low, moderate, middle and upper), and the number and amount located inside and outside of the assessment area(s).

3. In any branch review undertaken, determine whether the branch provides the most recent performance evaluation and a list of services generally available at its branches and a description of any material differences in availability or cost of services at the branch (or a list of services available at the branch).

Appendix to Large Institution CRA Examination Procedures

<table>
<tr><th colspan="3">Community Development Loans and Services and Qualified Investments</th></tr>
<tr><th></th><th colspan="2">Qualified community development (CD) activities in the assessment area (AA) <u>or</u> the broader statewide or regional area that includes the AA(s)</th></tr>
<tr><td></td><td>Has a purpose, mandate, or function that includes serving the AA</td><td><u>Does not have</u> a purpose, mandate, or function that includes serving the AA</td></tr>
<tr><td rowspan="2">Initial level activity is considered during the evaluation:</td><td><u>Specific AA</u> when an activity benefits and is targeted to the AA.

<u>State/Multistate MSA</u> when an activity benefits or is targeted to two or more AAs, or the state or multistate MSA.

<u>Institution level</u> when an activity benefits or is targeted to:
• A regional area of two or more states not in a multistate MSA, or
• A regional area that includes, but is larger than one multistate MSA.</td><td>If the institution has been responsive to CD needs and opportunities in its AA(s), these activities may enhance performance at the state, multistate MSA, or institution level as applicable.

<u>State/Multistate MSA</u> when the activity benefits geographies or individuals located in a state or multistate MSA where the bank has one or more defined AA.

<u>Institution level</u> when the activity is in the broader regional area that includes the bank's AA(s).</td></tr>
<tr><td colspan="2">Note: It is not appropriate to assign activities to a specific AA or state unless the bank can demonstrate the activity benefitted, and was targeted to, the AA or state.</td></tr>
<tr><td>PE comments:</td><td colspan="2"><u>Specific AA</u> – Discuss conclusions regarding evaluation of the level of activity. Comment on the quantitative measure of the loan/investment/service and the qualitative aspects that augmented performance levels.

<u>State/Multistate MSA</u> – Discuss conclusions regarding evaluation of the level of activity. Comment on the quantitative measure of all loans, investments, and services in all the AA(s) in the state or multistate MSA combined. Include statewide and regional activities that contribute to the state/multistate MSA's overall assessment and indicate if related amounts are in addition to or included in specific AA discussions or tables. Explain if loans, investments, and/or services for any AA were given greater weight than others and why. Comment generally on qualitative aspects that augmented performance, such as responsiveness to need, degree of innovation, or complexity.

<u>Institution level</u> – Discuss conclusions regarding evaluation of the level of activity. Comment on the quantitative measure of all loans, investments, and services in all states and multistate MSAs combined. Include regional and nationwide activities that contribute to the institution's overall assessment and indicate if related amounts are in addition to or included in the specific state or multistate MSA discussions or tables. Explain if loans, investments, and/or services for any state or multistate MSA were given greater weight than others and why. Comment generally on qualitative aspects that augmented performance, such as responsiveness to need, degree of innovation, or complexity.</td></tr>
<tr><td>Show in tables (when used):</td><td colspan="2"><u>Specific AA</u> - Include qualified activities the bank can demonstrate directly benefit or target the AA.

<u>State/Multistate MSA</u> – Separate line for qualified activities that support an organization or activity that covers an area that is larger than, but includes the institution's AA, and has not been attributed to a specific AA. Include regional activities and nationwide investments that benefit, or are targeted, to a specific state or multistate MSA.

<u>Institution level</u> – Separate lines for 1) regional and 2) nationwide activities that were not otherwise attributed to a specific AA, state, or multistate MSA.</td></tr>
</table>

Appendix A: Distressed or Underserved Tracts for Your State

2016 List of Distressed or Underserved Nonmetropolitan Middle-Income Geographies **Effective June 1, 2016**

		Distressed Middle-Income Nonmetropolitan Tracts			Underserved Middle-Income Nonmetropolitan Tracts	Previous Year Designation				
COUNTY NAME	STATE NAME	POVERTY	UNEMPLOYMENT	POPULATION LOSS	REMOTE RURAL	DISTRESSED	UNDER-SERVED	STATE CODE	COUNTY CODE	TRACT CODE
SALINE	IL	X						17	165	9562.00
WABASH	IL				X		X	17	185	9572.00
WABASH	IL				X		X	17	185	9573.00
WABASH	IL				X		X	17	185	9574.00
WABASH	IL				X		X	17	185	9575.00
GRANT	IN	X				X		18	053	0001.00
GRANT	IN	X				X		18	053	0102.00
GRANT	IN	X				X		18	053	0103.00
GRANT	IN	X				X		18	053	0104.00
GRANT	IN	X				X		18	053	0105.00
GRANT	IN	X				X		18	053	0106.00
GRANT	IN	X				X		18	053	0107.00
GRANT	IN	X				X		18	053	0108.00
SPENCER	IN				X		X	18	147	9529.00
SPENCER	IN				X		X	18	147	9531.00
WARREN	IN				X		X	18	171	9510.00
WARREN	IN				X		X	18	171	9511.00
WAYNE	IN					X		18	177	0004.00
WAYNE	IN					X		18	177	0006.00
WAYNE	IN					X		18	177	0007.00
WAYNE	IN					X		18	177	0008.00
WAYNE	IN					X		18	177	0101.00
WAYNE	IN					X		18	177	0102.00
WAYNE	IN					X		18	177	0103.00
WAYNE	IN					X		18	177	0104.00
WAYNE	IN					X		18	177	0106.00
WAYNE	IN					X		18	177	0107.00
WAYNE	IN					X		18	177	0108.00
ADAIR	IA				X		X	19	001	9601.00
ADAIR	IA				X		X	19	001	9602.00

Appendix B: Bay State Bank

PUBLIC DISCLOSURE

October 21, 2014

COMMUNITY REINVESTMENT ACT PERFORMANCE EVALUATION

Bay State Savings Bank
Certificate Number: 90311

28 Franklin Street
Worcester, Massachusetts 01608

Federal Deposit Insurance Corporation
350 Fifth Avenue, Suite 1200
New York, New York 10118

NOTE: This document is an evaluation of this institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the institution. This evaluation is not, nor should it be construed as, an assessment of the financial condition of this institution. The rating assigned to this institution does not represent an analysis, conclusion or opinion of the Federal Deposit Insurance Corporation concerning the safety and soundness of this financial institution.

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GENERAL INFORMATION

The Community Reinvestment Act (CRA) requires each federal financial supervisory agency to use its authority when examining financial institutions subject to its supervision, to assess the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the institution. Upon conclusion of such examination, the agency must prepare a written evaluation of the institution's record of meeting the credit needs of its community.

This document is an evaluation of the CRA performance of ***Bay State Savings Bank*** *prepared by the* ***Federal Deposit Insurance Corporation****, the institution's supervisory agency, as of* ***October 21, 2014****. The agency evaluates performance in assessment area(s), as they are delineated by the institution, rather than individual branches. This assessment area evaluation may include the visits to some, but not necessarily all of the institution's branches. The agency rates the CRA performance of an institution consistent with the provisions set forth in Appendix A to 12 CFR Part 345.*

INSTITUTION RATING

INSTITUTION'S CRA RATING: This institution is rated **Outstanding**.

An institution in this category has an excellent record of helping to meet the credit needs of its assessment area, including low- and moderate-income neighborhoods and individuals, in a manner consistent with its resources and capabilities.

- The loan-to-deposit ratio is reasonable given the institution’s size, financial condition, and assessment area credit needs.

- The bank originated a substantial majority of home mortgage loans and small business loans in its assessment area.

- The distribution of borrowers reflects, given the demographics of the assessment area, excellent penetration among individuals of different income levels (including low- and moderate-income) and businesses of different sizes.

- The geographic distribution of home mortgage loans and small business loans reflects excellent dispersion throughout the assessment area.

- The institution did not receive any CRA-related complaints since the previous evaluation; therefore, this factor did not affect the rating.

SCOPE OF EXAMINATION

Bay State Savings Bank's (BSSB) CRA performance was evaluated using Small Bank Examination Procedures. These procedures, which are established by the Federal Financial Institutions Examination Council (FFIEC), are used as the Bank had total assets of at least $300.0 million, but less than $1.202 billion, as of December 31 of each of the prior two calendar years. The institution's performance was evaluated pursuant to the following Lending Test criteria: loan-to-deposit (LTD) ratio, assessment area concentration, borrower profile, geographic distribution of loans, and the institution's responsiveness to CRA-related complaints. This evaluation covers the bank's CRA performance since the previous evaluation dated May 9, 2011.

Examiners selected loan categories that are business focuses of the institution and comprise the most significant portions of the overall loan portfolio, which for BSSB are residential real estate (primary) and commercial lending (secondary). Specifically, residential and commercial loans represent 64.7 and 31.7 percent of the outstanding loan portfolio as of June 30, 2014, respectively. Overall, the assessment of the bank's lending performance is more heavily based on residential real estate lending since these loans represent the largest percentage of the loan portfolio. The bank does not have any affiliates that were considered for this evaluation.

Information concerning BSSB's home mortgage lending was derived from the loan application registers (LARs) maintained by the bank pursuant to the Home Mortgage Disclosure Act (HMDA). The LARs contain data about home purchase, home improvement, and refinance loans on one-to-four family and multifamily (five or more units) properties. The home mortgage loan analysis considered all originated or purchased home mortgage loans reported on the LARs for 2012, 2013, and the first 6 months of 2014. Specifically, the review included 310 loans from 2012 totaling $54.8 million, 180 loans from 2013 totaling $39.6 million, and 109 loans from 2014 totaling $25.6 million. Examiners compared the bank's 2012 home mortgage lending performance with 2012 aggregate lending data. Aggregate lending data includes the lending activity within the bank's assessment area of all institutions subject to HMDA reporting. As of the date of this evaluation, 2013 aggregate data was not available.

Small business loans for the purpose of this evaluation include commercial real estate loans and commercial and industrial loans with original amounts of $1 million or less. Due to its asset size, the bank is not subject to data collection and reporting of small business loans. While the bank is not required to report small business loans, it maintains the information in the same format required by CRA. Information concerning small business lending was derived from a statistical sample of the 2013 Small Business Loan Register maintained, but not reported, by the bank. The sample of small business loans consisted of 21 loans totaling $3.6 million and was selected from a universe of 34 loans totaling $4.6 million. Dun and Bradstreet (D&B) business demographic data from 2013 was utilized for comparative purposes.

The bank does not originate a substantial number of consumer loans and does not originate small farm loans. As such, consumer and small farm loans are not considered in this evaluation. The Borrower Profile and Geographic Distribution tables reference loans in terms of number originated during the review period. Loan data by dollar amount was generally comparable to the data by number of loans and was therefore excluded from the tables.

DESCRIPTION OF INSTITUTION

BSSB is a Massachusetts state-chartered, stock-owned, savings bank established in 1895 and headquartered in Worcester, Massachusetts. In addition to the main office and loan center located at 28 Franklin Street, BSSB operates six full-service branches and one limited-service branch. The main office is located in a low-income census tract. The bank has one additional branch located in a low-income census tract, two branches in the same moderate-income census tract, three branches in middle-income census tracts, and one branch located in an upper-income census tract. These branches are located in Auburn (one full-service and one limited-service branch), Holden (one full-service branch), and Worcester (four full-service branches). The main office and all full-service branches are equipped with automated teller machines (ATMs). All branches are located within the Worcester, MA Metropolitan Statistical Area (MSA). The bank has not opened or closed any branches since the prior CRA evaluation.

The bank offers a variety of loan products including residential real estate, commercial real estate, commercial and industrial loans, loans secured by investment properties, home equity lines of credit, and secured and unsecured consumer loans. Additionally, the bank offers Small Business Administration (SBA) commercial loans and sells home mortgage loans on the secondary market.

As of June 30, 2014, the bank had total assets of approximately $315.8 million, total deposits of $261.8 million, and net loans of $251.5 million. Total assets have increased since the prior CRA evaluation, from $268.3 million to the current level. The increase in assets was attributed to growth in real estate lending and purchasing pools of loans. Net loan growth slightly outpaced deposit growth, as net loans grew by approximately $53.1 million, whereas deposit growth was $46.4 million. Table 1 details the composition of the bank's loan portfolio as of June 30, 2014.

Table 1 – Loan Distribution as of June 30, 2014

Loan Type	Dollar Amount (000s)	Percent of Total Loans
Construction and Land Development	1,849	0.7
Secured by Farmland	0	0
1-4 Family Residential	153,853	60.2
Multi-Family (5 or more) Residential	11,341	4.5
Commercial Real Estate	73,166	28.6
Total Real Estate Loans	**240,209**	**94.0**
Commercial and Industrial	7,943	3.1
Consumer	7,400	2.9
Other	0	0
Total Loans	**255,552**	**100.0**

Source: June 30, 2014, Report of Condition and Income (Call Report)

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The FDIC and Massachusetts Division of Banks rated the bank's CRA performance "Outstanding" at the evaluation dated May 9, 2011, using Small Bank Examination Procedures. There are no known legal impediments or financial constraints that would prevent BSSB from meeting the credit needs of the assessment area.

DESCRIPTION OF ASSESSMENT AREA

The CRA requires financial institutions to define assessment area(s) within which the bank will focus its lending efforts. The FDIC evaluates the institution's CRA performance based on its activity within the defined assessment area(s). The bank's assessment area, as currently defined, meets the technical requirements of the CRA regulation.

The bank's assessment area contains 118 of the 172 census tracts in Worcester County and includes the following cities and towns: Auburn, Barre, Berlin, Boylston, Charlton, Clinton, Douglas, Dudley, Grafton, Holden, Hubbardston, Lancaster, Leicester, Leominster, Millbury, Northborough, Northbridge, Oakham, Oxford, Paxton, Princeton, Rutland, Shrewsbury, Spencer, Sterling, Sutton, Upton, Westborough, West Boylston, Westminster, and Worcester. All of the geographies are located in the Worcester, MA MSA. The bank expanded its assessment area since the previous evaluation due to an increased presence through its website and enhanced lending tools, which has allowed the bank to reach more areas. During the prior review period, the assessment area included 78 census tracts in Worcester County.

In 2013, the assessment area included 12 (10.2 percent) low-income census tracts, 25 (21.2 percent) moderate-income census tracts, 48 (40.7 percent) middle-income census tracts, 31 (26.3 percent) upper-income census tracts and 2 (1.7 percent) census tracts with no reported income. Census tracts with no income contain universities. On January 1, 2014, the census tract income designation of the assessment area changed. This change did not affect the boundaries of the assessment area or the overall number of census tracts; however, income levels for seven census tracts changed. Specifically, two moderate-income census tracts became middle-income census tracts, and five middle-income census tracts became upper income census tracts. As of January 1, 2014, the assessment area included 12 (10.2 percent) low-income census tracts, 23 (19.5 percent) moderate-income census tracts, 45 (38.1 percent) middle-income census tracts, 36 (30.5 percent) upper-income census tracts and 2 (1.7 percent) census tracts with no reported income.

As of January 1, 2014, all low-income tracts and 13 of 23 moderate-income tracts in the assessment area were in the City of Worcester. The remaining moderate-income census tracts are located in the following communities: Auburn (one tract), Clinton (one tract), Leominster (four tracts), Webster (three tracts), and Whitinsville (one tract).

Population Data

The geographies comprising the assessment area are a mix of urban and suburban. The total population of the assessment area, as of the 2010 United States (U.S.) Census, was 552,097. The U.S. Census defines a household as all persons occupying a housing unit. Income figures are based on the incomes of all contributing members of a household. As of the 2010 U.S. Census, there were 207,441 households within the assessment area. The assessment area had 138,194 family households (a household where two or more occupants are related by birth, marriage, or adoption).

In 2013, 21.1 percent of the household families were low-income, 16.9 percent were moderate-income, 21.8 percent were middle-income, and 40.2 percent were upper-income. In 2014, 20.5 percent were low-income, 16.3 percent were moderate-income, 21.4 percent were middle-income, and 41.8 percent were upper-income. The high percentage of low- and moderate-income families may increase opportunities to lend to these families. The 2010 U.S. Census also indicates that 7.0 percent of families in the assessment area live below the poverty level. This poverty level reflects the state of Massachusetts ratio of 7.5 percent. The distribution of families by income level provides a demographic comparison for the Borrower Profile criterion.

The Federal Financial Institutions Examination Council (FFIEC) estimates adjusted Median Family Income (MFI) figures annually. These figures are used to determine the lending distribution by borrower income level for each year. The 2013 and 2014 FFIEC-estimated MFIs for the Worcester, MA MSA are $81,300 and $77,900, respectively.

Housing Data

According to the 2010 U.S. Census, the assessment area contained 223,994 housing units, of which 61.2 percent were owner-occupied, 31.4 percent were occupied-rental units, and 7.4 percent were vacant. Approximately 81.3 percent of the housing stock consisted of one-to-four unit properties, with an additional 18.2 percent classified as multifamily properties (five or more units). The median housing value for the assessment area was $304,990, which is lower than the state of Massachusetts median housing value of $352,300. The median gross monthly rent was $865, which is also lower than the state of Massachusetts median gross monthly rent of $1,006.

Economic Data

According to data derived from Infogroup located at www.mass.gov, some of the major employers in Worcester County include Hanover Insurance, Health Alliance Hospital, Milford Regional Medical Center, and Saint-Gobain Abrasives; each employing 1,000 – 4,999 individuals. Furthermore, bank management stated that larger employers in the City of Worcester include Unum Insurance and UMass Memorial Medical Center. Management also stated that the education sector is a major employer in the City of Worcester because of the number of colleges in the area.

According to the U.S. Bureau of Labor Statistics, the unemployment rate in Worcester County was 8.1 percent in 2011, 7.6 percent in 2012, and 7.9 percent in 2013. As of the second quarter of 2014, the unemployment rate in Worcester County declined to 6.1 percent. In comparison, the statewide unemployment rate for Massachusetts was 7.3, 6.8, and 7.1 percent respectively in 2011, 2012, and 2013. As of the second quarter 2014, the unemployment rate for Massachusetts was 5.5 percent, which is lower than the unemployment rate in Worcester County. Overall, unemployment rates for Worcester County, Massachusetts, and the U.S. declined since the prior evaluation.

Business Data

According to 2012 D&B data, there were 46,971 non-farm businesses located in the assessment area. Of these, 71.9 percent were businesses with gross annual revenues (GARs) of $1 million or less, and 73.3 percent had fewer than 10 employees. The number of businesses slightly decreased in 2013, as D&B reported 42,957 non-farm businesses. The percentage of businesses with GARs of $1 million or less slightly increased to 72.5 percent, and the number of businesses with fewer than 10 employees slightly increased to 74.1 percent.

The 2012 D&B data indicates that of the non-farm businesses within the assessment area, 10.4 percent were located in low-income tracts, 16.4 percent were in moderate-income tracts, 39.8 percent were in middle-income tracts, 33.3 percent were in upper-income tracts, and 0.1 percent were located in census tracts with no assigned income designation. According to 2013 D&B data, the percentage of non-farm businesses located in low-income tracts were 10.5 percent, moderate- income tracts were 16.4 percent, moderate-income tracts were 39.7 percent, and upper-income census tracts were 33.4 percent.

Competition

There is a high level of competition for banking services within the assessment area. The bank's competition comes from 51 financial institutions operating 220 branches. The bank's assessment area is served by many large regional and national financial institutions, including Sovereign Bank, Bank of America, TD Bank, and RBS Citizens. Measuring by deposit market share, BSSB ranks 9th and holds 1.8 percent of deposits in the assessment area. In comparison, the five largest institutions hold approximately 31.8 percent of the market share for deposits.

Furthermore, in 2012, 395 HMDA lenders reported a total of 28,630 residential mortgage loans originated or purchased within the assessment area. BSSB ranked 26th out of this group of lenders with a market share of 1.0 percent.

Community Contact

As part of the evaluation process, third parties active in the assessment area are contacted to assist in assessing the credit and needs of the community. The information obtained helps to determine whether local financial institutions are responsive to the needs of the communities and what opportunities, if any, are available.

A recent community contact conducted in May 2014 was utilized for this evaluation. The contact was with an organization that provides affordable housing and housing rehabilitation services in the City of Worcester. The contact stated that community credit needs are home improvement and repairs, as the city's housing stock ages, and for homeowners that are struggling with their mortgages. The contact envisions the best method to disburse this credit would be through the creation of a community loan fund, which would mitigate the risk to banks.

The contact would also like to see financial institutions partner with MassHousing to offer programs such as "Get the Lead Out" to assist qualified homeowners. Overall, the contact was pleased with local financial institutions' involvement in the community.

Assessment Area Credit Needs

Examiners identified the primary credit needs of the assessment area based on demographic information, comments from management, and the community contact. Like many urban areas, the assessment area has a wide range of credit needs. Individuals require financing to purchase, refinance, or improve their primary residences. Investors also require financing to purchase and maintain rental properties. A community contact noted that many homeowners require financing to maintain and repair older homes, but that many low- and moderate-income individuals have difficulty qualifying for such financing. In addition, the high volume of small businesses in the assessment area indicates the need for small business loans.

CONCLUSIONS WITH RESPECT TO PERFORMANCE CRITERIA

Loan-to-Deposit Ratio

This performance criterion measures what percentage of the bank's deposit base is reinvested in the form of loans. The bank's average net LTD ratio was calculated using the most recent 13 quarterly Reports of Condition and Income issued since the prior evaluation. The ratio is calculated using net loans and leases in relation to total deposits. The bank's average net LTD ratio during the review period is reasonable given the bank's size, financial condition, and assessment area credit needs.

The bank's average net LTD ratio was 94.9 percent, with a current net LTD ratio of 96.4 percent as of June 30, 2014. The bank's ratio fluctuated over the last 13 quarters and ranged from a low of 91.1 percent as of September 30, 2013, to a high of 99.9 percent as of September 30, 2012.

Further analysis was conducted to compare BSSB with similarly situated banks, which were selected based on total assets, loan portfolio composition, and geographic location. Based on these factors, there were two institutions considered similarly situated. Table 2 illustrates the average and current net LTD ratios for BSSB and the two similarly situated institutions.

Table 2 – Similarly Situated Bank LTD Comparison

Bank Name	Total Assets ($000s) as of 6/30/14	Average NLTD ratio 6/30/11 - 6/30/14	NLTD ratio as of 6/30/14
Hometown Bank	390,077	98.2	95.2
BSSB	**315,807**	**94.9**	**96.4**
Millbury Savings Bank	204,841	73.5	78.7

Source: Reports of Condition and Income (Call Reports)

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As shown in Table 2, the average net LTD ratio for this similarly situated group of institutions ranged from a high of 98.2 percent to a low of 73.5 percent. BSSB performed reasonably compared to the other similarly situated banks.

During the review period, BSSB sold 107 residential mortgage loans totaling approximately $20.2 million. The loans were sold to MassHousing Finance Agency, US Bank, and Franklin American Mortgage. Selling loans enables institutions to manage their liquidity and interest rate risk, and also allows them to originate a larger volume of loans than would otherwise be possible. These loans are not reflected in the net LTD ratio, but are indicative of the bank's willingness to meet the credit needs of its community.

Assessment Area Concentration

The bank's performance for this criterion is evaluated based on the number and dollar amount of HMDA and small business loans within the assessment area. Overall, a substantial majority of home mortgage and small business loans by number and dollar volume were originated inside the assessment area, reflecting an excellent commitment to meeting the credit needs of the community. While the volume of residential loans outside the assessment area increased in 2014, the overall performance within the assessment area is strong considering the high ratios in 2012 and 2013. Table 3 displays the distribution of loans originated inside and outside of the assessment area during the review period.

Table 3 – Distribution of Loans Inside and Outside of Assessment Area

Loan Category	Number Loans					Dollar Volume ($000s)				
	Inside		Outside		Total	Inside		Outside		Total
	#	%	#	%		$	%	$	%	
Residential Loans										
2012	280	90.3	30	9.7	310	46,964	85.7	7,812	14.3	54,776
2013	156	86.7	24	13.3	180	33,049	83.4	6,589	16.6	39,638
2014	71	65.1	38	34.9	109	13,102	51.3	12,450	48.7	25,552
Total Residential	**507**	**84.6**	**92**	**15.4**	**599**	**93,115**	**77.6**	**26,851**	**22.4**	**119,966**
Small Business Loans										
2013 Small Business	21	100.0	0	0.0	21	3,573	100.0	0	0.0	3,573
Grand Total	**528**	**85.2**	**92**	**14.8**	**620**	**96,688**	**78.3**	**26,851**	**21.7**	**123,539**

Source: HMDA LARs (2012, 2013 and first 6 months of 2014), Bank Records – 2013 Small Business Loan Sample

Borrower Profile

This performance criterion evaluates the extent to which the bank has addressed the credit needs of the area's residents and businesses, with the largest emphasis on low- and moderate-income borrowers and businesses with GARs of $1 million or less. The distribution of borrowers demonstrates excellent penetration among individuals of different income levels (including low-and moderate-income) and businesses of different sizes. The following sections discuss BSSB's performance under this criterion by loan type.

Home Mortgage Loans

The distribution of home mortgage loans reflects excellent penetration among borrowers of different income levels. Table 4 shows the distribution of home mortgages by borrower income level within the assessment area, and presents loan activity in comparison to aggregate data and family income levels. Median family income is used when determining the percentage of low-, moderate-, middle-, and upper-income families. As indicated earlier, the MFI for the Worcester, MA MSA was $81,300 in 2013 and $77,900 in 2014. The change in percentage of total families between 2013 and 2014 is reflected in Table 4.

Table 4 – Distribution of Home Mortgage Loans by Borrower Income Level

Borrower Income Level	% of Total Families (2013)	2012 Aggregate Lending Data	Bank 2012		Bank 2013		% of Total Families (2014)	Bank 2014	
		% of #	#	%	#	%		#	%
Low	21.1	6.1	21	7.5	19	12.2	20.5	2	2.8
Moderate	16.9	16.1	66	23.6	32	20.5	16.3	15	21.1
Middle	21.8	23.1	69	24.6	26	16.7	21.4	17	23.9
Upper	40.2	40.4	102	36.4	57	36.5	41.8	30	42.3
***N/A**	0.0	14.3	22	7.9	22	14.1	0.0	7	9.9
Total	**100.0**	**100.0**	**280**	**100.0**	**156**	**100.0**	**100.0**	**71**	**100.0**

Source: U.S. Census data, HMDA LARs (2012, 2013, and first 6 months 2014), and 2012 HMDA Aggregate Data
**The income category "N/A" is used when borrower income is not available. It is used for loans where a specific income was not relied upon in making the credit decision, where the borrower is a non-natural person, or the loan is secured by a multi-family property.*

The bank originated 7.5 percent, 12.2 percent, and 2.8 percent of loans to low-income borrowers in 2012, 2013, and the first 6 months of 2014, respectively. The level of lending to low-income borrowers in 2012 exceeded aggregate data. At the time of this evaluation, aggregate data was not available for 2013 and 2014. In comparison with the percentage of low-income families, BSSB's performance lagged demographic data in 2013 and the first six months of 2014. However, families below the poverty level, which are a subset of low-income families, represent 7.0 percent of all assessment area families. Considering the cost of housing, most of these families would not qualify for home financing. Furthermore, of the 395 lenders in the assessment area that originated a HMDA loan to a low-income borrower in 2012, BSSB ranked 16th with 1.2 percent of the market share, which further illustrates management's commitment to originate loans to low-income borrowers.

In comparison with the percentage of moderate-income families within the assessment area, the bank's performance was strong. The level of lending to moderate-income borrowers in 2012

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exceeded aggregate data. BSSB's performance was slightly lower in 2013 and the first six months of 2014. Furthermore, of the 395 lenders in the assessment area that originated a HMDA loan in 2012 to a moderate-income borrower, the bank ranked 14th with 1.4 percent of the market share. This exceeds the bank's overall market share of HMDA loans, demonstrating its strong performance to moderate-income borrowers.

Small Business Loans

The distribution of small business loans represents excellent penetration to businesses with revenues of $1 million or less. Table 5 provides information regarding the distribution of small business loans by GAR level as compared to business demographic data.

Table 5 – Distribution of Small Business Loans by Gross Annual Revenues of Business			
Gross Annual Revenues (000s)	**% of Total Businesses**	**Bank 2013**	
	2013	**#**	**%**
≤ $1,000	72.5	19	90.5
> $1,000 or NA	27.5	2	9.5
Total	**100.0**	**21**	**100.0**

Source: Bank Records – 2013 Small Business Data Sample and 2013 D&B Data

The bank originated 19 of the 21 sampled loans to businesses with GARs of $1 million or less, which exceeded the percentage of businesses in the assessment area with GARs of this level. This high distribution of loans to businesses with GARs of $1 million or less reflects the bank's strong commitment to meeting the credit needs of small businesses.

Geographic Distribution

This performance criterion assesses the bank's performance in addressing the credit needs among geographies of different income levels throughout the assessment area, particularly in the low- and moderate-income census tracts. Overall, the geographic distribution of home mortgage and small business loans reflects excellent dispersion throughout the assessment area.

Home Mortgage Loans

The distribution of home mortgage loans reflects excellent dispersion of loans throughout the assessment area, particularly in low- and moderate-income census tracts, considering the assessment area demographics. Table 6 depicts the bank's home mortgage lending during the review period compared to applicable demographic and aggregate data. Demographic data includes the percentage of owner-occupied housing units in each census tract income level for 2013 and 2014. The different percentages for 2013 and 2014 reflect the change in census tract designations discussed in the *Description of Assessment Area*.

Table 6 – Distribution of HMDA Loans by Income Category of Census Tract									
Census Tract Income Level	**% of Total Owner-Occupied Housing Units**	**2012 Aggregate Lending Data**	**Bank 2012**		**Bank 2013**		**% of Total Owner-Occupied Housing Units (2014)**	**Bank 2014**	
		% of #	**#**	**%**	**#**	**%**		**#**	**%**
Low	2.7	1.6	20	7.1	21	13.5	2.7	5	7.0
Moderate	12.5	9.1	37	13.2	22	14.1	11.2	12	16.9
Middle	47.7	41.3	143	51.1	70	44.9	44.4	33	46.5
Upper	37.1	47.9	80	28.6	43	27.5	41.7	21	29.6
NA	0.0	0.1	0	0.0	0	0.0	0.0	0	0.0
Total	**100.0**	**100.0**	**280**	**100.0**	**156**	**100.0**	**100.0**	**71**	**100.0**

Source: U.S. Census data (2010), HMDA LARs (2012, 2013, and first 6 months of 2014), and HMDA Aggregate Data (2012)

The bank originated 20 loans (7.1 percent) in low-income census tracts in 2012. This percentage greatly exceeds aggregate data for loans in low-income census tracts (1.6 percent). Additionally, the percentage of lending in low-income census tracts for 2013 and 2014 greatly exceeds demographic data as illustrated in Table 6, illustrating excellent performance by the bank. Furthermore, of the 395 lenders in the assessment area that originated a HMDA loan in 2012 in a low-income census tract, BSSB ranked 3rd with 4.3 percent of the market share, which further highlights the bank's commitment to originate loans in these geographies.

BSSB originated 37 loans (13.2 percent) in moderate-income census tracts in 2012. This percentage exceeds aggregate data for loans in moderate-income census tracts (9.1 percent). Additionally, the percentage of lending in moderate-income census tracts for 2013 and 2014 exceeds demographic data. Additionally, of the 395 lenders in the assessment area that originated a HMDA loan in 2012 in a moderate-income census tract, BSSB ranked 16th with 1.4 percent of the market share.

Small Business Loans

The distribution of small business loans reflects excellent dispersion throughout the assessment area, particularly in low- and moderate-income census tracts. Table 7 depicts the distribution of small business loans by income level of census tract, as compared to applicable demographic data.

Table 7 – Distribution of Small Business Loans by Income Category of Census Tract			
Census Tract Income Level	**% of Total Businesses**	**Bank 2013**	
	2013	**#**	**%**
Low	10.5	7	33.3
Moderate	16.4	6	28.5
Middle	39.7	4	19.1
Upper	33.4	4	19.1
Total	**100.0**	**21**	**100.0**

Source: Bank Records – 2013 Small Business Data Sample and 2013 D&B Data

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In 2013, the bank originated 33.3 percent of sampled small business loans in low-income census tracts, which is more than triple demographic data (10.5 percent) and reflects strong performance. In 2013, the bank originated 28.5 percent of sampled loans in moderate-income census tracts, which also compared favorably to demographic data (16.4 percent).

Response to CRA Complaints

The bank has not received any complaints regarding its CRA performance since the previous evaluation.

FAIR LENDING OR OTHER ILLEGAL CREDIT PRACTICES REVIEW

Reviews were conducted for compliance with fair lending and other lending-related regulations. These reviews revealed an isolated discriminatory violation of Equal Credit Opportunity Act and Fair Housing Act. Examiners found this violation despite policies, procedures, and training programs in place to prevent discriminatory or other illegal credit practices. Overall, the impact of this isolated violation was limited, and management committed to implement appropriate corrective action in this instance; therefore, the Bank's CRA rating was not adversely affected.

Appendix C: Union County Bank

PUBLIC DISCLOSURE

November 6, 2014

COMMUNITY REINVESTMENT ACT PERFORMANCE EVALUATION

Union County Saving Bank
12013
320 North Broad Street
Elizabeth, New Jersey

Federal Deposit Insurance Corporation
350 Fifth Avenue, Suite 1200
New York, New York 10118

NOTE: This document is an evaluation of this institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the institution. This evaluation is not, nor should it be construed as, an assessment of the financial condition of this institution. The rating assigned to this institution does not represent an analysis, conclusion or opinion of the federal financial supervisory agency concerning the safety and soundness of this financial institution.

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GENERAL INFORMATION

The Community Reinvestment Act (CRA) requires each federal financial supervisory agency to use its authority when examining financial institutions subject to its supervision, to assess the institution's record of meeting the credit needs of its entire assessment area, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the institution. Upon conclusion of such examination, the agency must prepare a written evaluation of the institution's record of meeting the credit needs of its assessment area.

This document is an evaluation of the CRA performance of ***Union County Savings Bank,*** *prepared by the* ***Federal Deposit Insurance Corporation****, the institution's supervisory agency, as of* ***November 6, 2014.*** *The agency evaluates performance in assessment area(s), as they are delineated by the institution, rather than individual branches. This assessment area evaluation may include the visits to some, but not necessarily all of the institution's branches. The agency rates the CRA performance of an institution consistent with the provisions set forth in Appendix A to 12 CFR Part 345.*

INSTITUTION'S RATING

INSTITUTION'S CRA RATING: This institution is rated **Substantial Noncompliance**.

A CRA rating of "Substantial Noncompliance" is assigned. An institution in this group has a substantially deficient record of helping to meet the credit needs of its assessment area, including low- and moderate-income neighborhoods, in a manner consistent with its resources and capabilities.

The following table indicates the performance level of the institution with respect to the lending, investment, and service tests.

PERFORMANCE LEVELS	Union County Savings Bank		
	PERFORMANCE TESTS		
	Lending Test (*)	Investment Test	Service Test
Outstanding			
High Satisfactory			
Low Satisfactory			
Needs to Improve			X
Substantial Noncompliance	X	X	

(*) Note: The lending test is weighted more heavily than the investment and service tests when arriving at an overall rating.

The assigned rating is based on the following factors:

Lending Test

- The bank's lending levels reflect very poor responsiveness to assessment area credit needs.
- A majority of the bank's home loans were originated inside the assessment area. However, this criterion was not weighted heavily in the overall rating, due to the low volume of lending by the bank.
- The geographic distribution of loans reflects a very poor dispersion throughout the assessment area.
- Although the distribution of the bank's home loans among borrowers of different incomes indicates adequate performance when compared to demographics and aggregate

lending data, the low volume of lending activity reflects very poor penetration throughout the assessment area.
- The bank did not originate any community development loans during the evaluation period.
- The bank makes no use of innovative or flexible loan products to serve assessment area needs.

Investment Test

- The bank has a poor level of qualified community development investments and grants.
- The bank exhibits very poor responsiveness to credit and community economic development needs.
- The bank does not use innovative and/or complex investments to support community development initiatives.

Service Test

.
- Union County Savings Bank's retail delivery systems are accessible to limited portions of the institution's assessment area.
- The bank's opening and closing of branches has not adversely affected the accessibility of its delivery systems.
- Services (including, where appropriate, business hours) do not vary in a way that inconveniences portions of the assessment area.
- The bank provides a limited level of community development services.

DESCRIPTION OF INSTITUTION

Union County Savings Bank is a full-service banking institution headquartered in Elizabeth, New Jersey. The bank operates four branches in Union County, New Jersey, including two branches located in low-income census tracts, one branch located in a middle-income census tract, and one branch located in an upper-income census tract. The bank did not open or close any branch offices since the previous CRA evaluation, dated September 4, 2012. The bank also operates one subsidiary, the UCSB Charitable Foundation, which supports community organizations throughout the assessment area.

As of September 30, 2014, the bank's total assets were $1.7 billion. This reflects a 7.0 percent increase from the previous evaluation total of $1.6 billion, as reflected in the June 30, 2012 Call Report data. The bank's loan portfolio totaled $104.4 million, a marginal decline from $114.7 million reported at the previous evaluation, and represented 6.2 percent of total assets and 7.1 percent of total deposits. The bank's investment portfolio, consisting primarily of U.S. Government Agency obligations and mortgage-backed securities, totaled $1.3 billion and represented 74.9 percent of assets and 86.0 percent of deposits. Deposit accounts totaled $1.5 billion and represented approximately 87.1 percent of all liabilities and capital.

The focus of the bank's lending is 1-4 family residential mortgage loans, which constitute 88.6 percent of the bank's total loan portfolio. Commercial real estate loans, consumer loans, and multi-family residential loans comprise the remainder of the portfolio at 8.8 percent, 1.8 percent, and 0.8 percent of total loans, respectively. Table A illustrates the distribution of the bank's loan portfolio:

Table A - Loan Distribution as of September 30, 2014		
Loan Type	**Dollar Amount (000s)**	**Percent of Total Loans (%)**
Construction & Land Development	0	0.0
Secured by Farmland	0	0.0
1-4 Family Residential	92,517	88.6
Multi-Family (5 or more) Residential	787	0.8
Commercial	9,169	8.8
Total Real Estate Loans	102,473	98.2
Agricultural	0	0.0
Commercial and Industrial	00	0.0
Consumer	1,885	1.8
Other	0.0	0.0
Less: Unearned Income	0.0	0.0
Total Loans	**104,358**	**100.0**

Source: Call Report Schedule RC-C

There are no legal or financial impediments preventing Union County Savings Bank from helping to meet the assessment area's credit needs.

The bank's CRA performance was rated "Need to Improve" at the previous CRA evaluation, conducted as of September 4, 2012, using Large Bank CRA procedures.

SCOPE OF EXAMINATION

Union County Savings Bank's performance was reviewed using the Large Bank CRA evaluation procedures. The Large Bank CRA evaluation procedures evaluate the bank's CRA performance pursuant to three tests: the Lending Test, the Investment Test, and the Service Test.

Union County Savings Bank is primarily a home mortgage lender, based on a review of the bank's balance sheet. Therefore, the evaluation of the bank's lending performance is based on a review of its home mortgage lending for 2012, 2013, and the first nine months of 2014 (YTD 2014). The home mortgage lending data was obtained from the Loan Application Registers (LARs) maintained by the bank pursuant to the Home Mortgage Disclosure Act (HMDA). The LARs contain data about home purchase and home improvement loans, including refinancings, on one- to four-family mortgage loans. The bank did not originate any HMDA-reportable multifamily property loans during the evaluation period. Although the evaluation included an analysis of both the number and dollar volume of home mortgage loans, all tables contained in the Borrower Profile and Geographic Distribution of Lending sections reference loans in terms of number only. Loan distributions by dollar amount were comparable to those by number of loans and, therefore, were excluded from this Performance Evaluation. The evaluation uses 2012 HMDA aggregate lending data to compare the bank's performance to other HMDA reporters; 2013 aggregate data was not yet available at the time of this evaluation. Only 2012 and 2013 loan data is presented in the geographic and borrower distribution tables. While not included in the tables, YTD 2014 performance is discussed, as appropriate, in the narrative.

Union County Savings Bank originates a very limited number of small business loans and consumer loans; consequently, meaningful conclusions could not be drawn regarding CRA related performance and these products were not included in this evaluation. The bank does not originate small farm loans.

The CRA evaluation also reviewed the bank's qualified community development loans, investments, grants, and services for the period of September 4, 2012, the date of the prior evaluation, through November 6, 2014.

DESCRIPTION OF ASSESSMENT AREA

The Community Reinvestment Act requires financial institutions to define an assessment area within which its CRA performance is evaluated. The FDIC evaluates the institution's CRA performance based on its activity within the defined assessment area.

Union County Savings Bank's assessment area is defined as 243 contiguous census tracts in New Jersey. The assessment area encompasses all of Union County (108 census tracts) and five whole towns in Essex County: Maplewood, Irvington, Newark, Orange, and East Orange (135 census tracts). These census tracts include 88 low-income census tracts (36.2 percent), 86 moderate-income census tracts (35.4 percent), 40 middle-income census tracts (16.5 percent), and 27 upper-income (11.1 percent) census tracts. There are also two census tracts (0.8 percent) for which no demographic data is available (N/A), usually the result of limited or no population. Union and Essex Counties are part of Metropolitan Division 35084, which is part of the larger

Combined Statistical Area 408. As a result, the bank has only one assessment area for evaluation purposes. The defined area meets the technical requirements of the regulation.

Population

According to the 2010 U.S. Census, the population of the bank's assessment area is 985,836. Of this population, 298,120 (30.2 percent) reside in low-income census tracts, 349,007 (35.4 percent) reside in moderate-income census tracts, 188,454 (19.1 percent) reside in middle-income census tracts, and 145,525 (14.8 percent) reside in upper-income census tracts. There is a population of 4,730 (0.5 percent) residing in the two census tracts designated as "N/A." The area is comprised of 229,087 family households, of which 82,407 (36.0 percent) are low-income, 45,089 (19.7 percent) are moderate-income, 41,682 (18.2 percent) are middle-income, and 59,909 (26.1 percent) are upper-income. The median family income of the assessment area is $73,327.

While a large percentage, 55.7 percent, of the assessment area's families are of low- or moderate-income, indicating opportunity to originate loans to this segment of the population, these families may have difficulty obtaining or maintaining a home mortgage loan. Please refer to page 12 for more details regarding the area's median family income.

Housing

The assessment area's housing stock is nearly evenly mixed between owner-occupied and rental units, as these units represent 41.7 percent and 47.5 of the area's total units, respectively. As shown in Table B, the majority of owner-occupied units are located in the area's middle- and upper-income census tracts. This indicates a reduced opportunity for a 1-4 family mortgage lender such as Union County Savings Bank to originate loans in the area's low- and moderate-income geographies.

Table B – Selected Housing Characteristics by Income Category of the Geography

Geographic Income Category	Percentage						Median		
	Census Tract	House-holds	Housing Units	Owner-Occupied	Rental Units	Vacant Units	Age*	Home Value	Gross Rent**
Low	36.2	29.5	31.4	12.4	44.4	47.9	49	$288,062	$863
Moderate	35.4	35.9	36.1	29.6	41.5	37.4	56	$289,422	$997
Middle	16.5	19.8	18.8	31.3	9.7	10.0	58	$374,288	$1,197
Upper	11.1	14.8	13.7	26.7	4.4	4.7	56	$610,771	$1,418
N/A	0.8	0.0	0.0	0.0	0.0	0.0	71	0	0
Total or Median	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**	**54**	**$423,311**	**$974**

*Source: 2010 U.S. Census, * - Owner-Occupied Units, ** - Renter-Occupied Units*

A further obstacle with regard to home mortgage lending in the assessment area is affordability. As shown in Table B, the median home value in the assessment area is $423,311. This is nearly six times the median family income ($73,327) of the assessment area and further illustrates the potential difficulties low- or moderate-income families may have in purchasing a home and, in turn, affects the bank's opportunity to originate loans to these segments of the population. In addition, Table B details the median home values of homes located in the assessment area's low- and moderate-income census tracts. These values are nearly four times the median family income of the assessment area, further illustrating affordability issues. While the area's median home values reflect difficulties borrowers may have in obtaining and maintaining a home mortgage loan, they also indicate opportunities for financial intuitions to originate affordable housing loans, as well as make investments and provide services that support local affordable housing initiatives.

Economic Data

The bank maintains its corporate headquarters (which includes a branch office) and three branch offices in Union County. According to the U.S. Bureau of Labor Statistics, the largest employers in the bank's assessment area during the evaluation period, by industry, were services, retail trade, and non-classified establishments.

As of September 2014, the unemployment rate in Union County, New Jersey, which constitutes approximately 44.0 percent of the bank's assessment area, was 6.6 percent. This matched that of the overall State of New Jersey's unemployment rate of 6.5 percent as of September 2014. The unemployment rate in Union County decreased throughout the evaluation period from 8.7 percent as of December 2012, to 8.0 percent as of December 2013, to the September 2014 level of 6.6 percent. The bank's assessment area also includes a portion of Essex County New Jersey, which had an unemployment rate of 7.6 percent as of September 2014. This rate also decreased steadily during the evaluation period, from the 10.0 percent reported as of December 2012.

Home prices in New Jersey rose 2.8 percent in the year ending second quarter 2014, which reflected improvement. However, according to information provided by Moody's Analytics, appreciation rates were expected to be half of the national rate for calendar year 2014. The number of multifamily housing permits issued in MD 35084 during the year reflects notable growth, while the volume of single-family building permits remains stagnant. Moreover, New Jersey's share of mortgages in foreclosure is the highest in the nation. A higher than average volume of foreclosed homes, coupled with low affordability, continues to impede New Jersey's housing recovery.

Competition and Services

There is a high level of competition to provide banking services throughout the bank's assessment area. The assessment area is served by many large regional and national financial institutions such as Wells Fargo Bank, Bank of America, TD Bank, JPMorgan Chase, and PNC Bank. In addition, the area has a high level of competition for banking services from New Jersey-based institutions such as Investors Bank, The Provident Bank, and Valley National Bank. In total, there are over 400 banking offices in the two counties (Union County and Essex County) that comprise the bank's assessment area. An analysis of 2013 deposit market data revealed that Union County Savings Bank ranked 5th in the assessment area, based upon total deposit volume with a total market share of 5.1 percent. The institutions ranking higher than Union County Savings Bank were Wells Fargo Bank, Bank of America, TD Bank, and Investors Bank.

There is also a high level of competition in the residential mortgage market throughout the bank's assessment area. Major nationwide mortgage lenders such as Wells Fargo, JPMorgan Chase, and Bank of America accounted for over 28.0 percent of the residential mortgage loan originations within the bank's assessment area in 2012 (the most recent year for which comparative market data is available). In 2012, 393 mortgage lenders reported loan originations in the bank's assessment area. Large multi-state, multi-billion dollar lenders topped the list of residential mortgage lenders in the assessment area. Due to the large number of lenders in the area, only one lender exceeded 10.0 percent of the market share, with only seven others exceeding two percent of the market share. Indeed, only the top 19 of the 393 reporters managed to garner more than 1.0 percent of the market. Union County Savings Bank ranked 92nd out of the 393 lenders. For additional market analysis, please refer to the Lending Activity section that begins on Page 9.

Community Contact

Recent contacts with various community development organizations were reviewed when developing the performance context for this evaluation. Notably, these contacts acknowledged the need for affordable housing, as well as housing and social service-related services. The contacts did not provide any specific information about Union County Savings Bank.

A community contact was also performed during this evaluation with a local grass roots, non-profit organization with a focus on employment and income development, housing, and social issues. The organization provides public housing and supportive services to residents through a network of partnerships with public and private agencies. In addition, the organization owns more than 200 housing units in Union County. Information gathered from this community contact revealed that the area has a continuing need for affordable housing. The contact indicated most low- and moderate-income individuals do not own their own home, but the ones that do are in a situation of the mortgage balance being higher than the home value. The contact also noted financial support has diminished in recent years, and donations by both individuals and businesses are at the lowest level in a decade.

Assessment Area Credit and Community Development Needs

Based on information from the community contacts, bank management, and demographic data, the bank's assessment area has specific credit and community development needs. There is a need for affordable housing, both owner-occupied and rental, throughout the area, which is difficult to obtain due to high home prices. Due to the size and diverse demographics of the assessment area, certain economically disadvantaged neighborhoods are more in need of affordable housing and social services targeted toward low- and moderate-income residents. Areas such as Elizabeth, Newark, Orange, and East Orange exhibit more need for affordable housing, economic development, and social services. Institutions can address these needs through lending, investments, and services.

CONCLUSIONS WITH RESPECT TO PERFORMANCE TESTS

LENDING TEST

Lending Activity

This performance criterion considers the volume of Union County Savings Bank's lending in relation to the bank's financial condition and resources.

Overall, the bank's level of lending reflects a very poor responsiveness to assessment area credit needs. For the period covering January 1, 2012, through September 30, 2014, the bank originated only 121 HMDA loans, of which 79 were originated in the bank's assessment area. As discussed earlier, all of the bank's HMDA loans represent 1-4 family residential mortgage loans.

The bank's volume of loans has declined every year since 2004. While the strong local competition presents challenges in terms of generating loan volume, the primary reason for the limited loan activity is management's decision to allocate the substantial majority of the bank's assets into the securities portfolio. According to the bank's September 30, 2014 balance sheet, 74.9 percent of the bank's assets are securities and only 6.2 percent are loans. Table C details the quarterly changes in total assets, as well as the loan and investment portfolios. The table also shows the bank's quarterly net loan-to-deposit (NLTD) ratio. The net loan-to-deposit ratio is used as a measure of the bank's lending in relation to its deposit base. Union County Savings Bank's limited and declining lending activity since the 2012 evaluation is reflected in its steadily decreasing NLTD ratio.

Table C - UCSB Select Financial Data

Quarter Ending	Total Assets ($000)	Total Loans ($000)	Total Investments ($000)	Total Deposits ($000)	LTD Ratio (%)
9/30/2014	1,697	104	1,572	1,478	7.0
6/30/2014	1,663	106	1,536	1,450	7.3
3/31/2014	1,666	104	1,466	1,455	7.1
12/31/2013	1,659	105	1,532	1,449	7.2
9/30/2013	1,656	102	1,525	1,443	7.1
6/30/2013	1,625	103	1,493	1,414	7.3
3/31/2013	1,605	106	1,471	1,399	7.6
12/31/2012	1,600	109	1,461	1,396	7.8
9/30/2012	1,581	111	1,391	1,379	8.0
6/30/2012	1,545	115	1,382	1,346	8.5

Source: Reports of Condition and Income (6/30/2012 – 9/30/2014)

For comparative purposes, the bank's NLTD ratio was compared to other institutions. Since similarly situated institutions (i.e. those with similar asset size, loan products, and a similar market area) could not be identified, a group of 18 New Jersey-based banks meeting the definition of a large bank under the CRA (asset size of at least $1.202 billion for two consecutive year-ends) was used for comparative purposes. Union County Savings Bank's NLTD ratio ranked the lowest for the most recent quarter ending September 30, 2014. The bank's NLTD ratio was also compared to a peer group consisting of all 35 large banks operating in New Jersey, including those based outside of the state. Union County Savings Bank's NLTD ratio again ranked the lowest for the most recent quarter end.

Market share data also provides insight into the bank's lending activity. Market data for 2012 revealed that Union County Savings Bank ranked 92nd out of the 393 lenders that originated home loans in the bank's assessment area. For 2012, the bank's market share was 0.16 percent by number of originations and 0.13 percent by dollar volume of originations, with an average loan amount of $241,000. A further review of 2012 market data showed that, while large, multi-state lenders led the market, several other New Jersey-based institution reported stronger performance in the assessment area than Union County Savings Bank. For example, RSI Bank ($493.2 million total assets) ranked 25th; Peapack-Gladstone Bank ($2.7 billion total assets) ranked 43rd; and Unity Bank ($1.0 billion total assets) ranked 73rd. While these institutions are not direct peers of Union County Savings Bank, their performance indicates that regional and local banks are competitive in this bank's assessment area. Market share and ranking information for 2013 was not available as of this writing.

As mentioned previously, there is significant competition for residential mortgage loans in the bank's assessment area. Additionally, the assessment area tends to be dominated by much larger mortgage lenders with nationwide networks, three of which have collectively accumulated over 28 percent of the market. While strong mortgage competition and the economic difficulties still experienced by large sections of the bank's assessment area contribute to the bank's difficulties in originating residential mortgage loans, the bank's strategy of allocating its assets primarily in the form of investment securities hampers its ability to secure a larger share of the home mortgage loan market.

Assessment Area Concentration

This performance criterion determines what percentage of the bank's HMDA lending occurs within the assessment area, by both number and dollar volume, and evaluates its appropriateness. The bank's HMDA loans for 2012, 2013 and YTD 2014 were included in the review of the bank's assessment area concentration.

A majority of the bank's HMDA loans, by both number and dollar volume, were made in the assessment area. However, this criterion was not weighted heavily in the overall rating, due to the low volume of lending achieved by the bank. Refer to Table D below for specific information concerning the distribution of loans inside and outside the assessment area.

Table D - Distribution of HMDA Loans Inside and Outside of the Assessment Area										
Loan Origination Year	Number of Loans					Dollars in Loans (000s)				
	Inside		Outside		Total	Inside		Outside		Total
	#	%	#	%		$	%	$	%	
2012	28	68.3	13	31.7	41	6,739	68.9	3,046	31.1	9,785
2013	26	55.3	21	44.7	47	5,601	46.7	6,388	53.3	11,989
YTD 2014	25	75.8	8	24.2	33	5,853	70.9	2,398	29.1	8,251
Total	79	65.3	42	34.7	121	18,193	60.6	11,832	39.4	30,025

Source: HMDA Disclosure Statement (2012), HMDA LAR (2012, 2013 & 2014) YTD 2014 = through 9/30/2014

As shown in Table D, Union County Savings Bank originated 65.3 percent of the total number and 60.6 percent of the total dollar volume of HMDA loans inside the assessment area in 2012, 2013, YTD 2014 combined.

Geographic Distribution

This segment of the performance evaluation assesses the bank's performance in addressing the credit needs in low-, moderate-, middle-, and upper- income census tracts in the bank's assessment area.

The geographic distribution of the bank's home mortgage loans reflects a very poor penetration throughout the assessment area. Table E depicts the distribution of HMDA lending within the bank's assessment area for calendar years 2012 and 2013. The bank's HMDA lending is compared to the total percentage of owner-occupied housing units within each census tract category and to the aggregate lending data for 2012.

Table E – Distribution of HMDA Loans by Income Category of the Census Tract									
Census Tract Income Level	% of Total Owner-Occupied Housing Units	Aggregate Lending Data (% of #)		2012		2013		Total	
		2012	2013	#	%	#	%	#	%
Low	12.4	6.7	N/A	0	0.0	1	3.8	1	1.9
Moderate	29.6	15.8	N/A	7	25.0	4	15.4	11	20.4
Middle	31.3	29.9	N/A	9	32.1	11	42.3	20	37.0
Upper	26.7	47.6	N/A	12	42.9	10	38.5	22	40.7
$0/NA Income	0.0	0.0	N/A	0	0.0	0	0.0	0	0.0
Total	**100.0**	**100.0**	**N/A**	**28**	**100.0**	**26**	**100.0**	**54**	**100**

Source: 2010 U.S. Census, HMDA Disclosure Statements (2012), HMDA LAR (2012 & 2013), and 2012 HMDA Aggregate Data

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As shown in Table E, the bank originated just one loan in a low-income census tract during the evaluation period. While the distribution of the bank's HMDA loans in moderate-income census tracts reflects more reasonable performance, the very low overall lending volume resulted in a less than satisfactory loan penetration. A review of the bank's HMDA loan originations in this area for YTD 2014 reveals performance consistent with 2013 activity.

Borrower Profile

This performance criterion evaluates the bank's record of lending to low-, moderate-, middle-, and upper-income borrowers.

The distribution of borrowers reflects a very poor penetration among retail customers of different income levels. While the distribution of the bank's home loans among borrowers of different incomes indicates adequate performance, when compared to demographics and aggregate lending data, the low volume of loans originated resulted in a less than satisfactory loan penetration. This low volume of lending skews the percentage distribution of loans because one or two loans notably changes the distributions amongst all income categories.

This performance criterion considers the distribution of HMDA loans in the bank's assessment area based on the gross annual income of individual borrowers to four income categories established on a yearly basis. Median family income (MFI) data for the assessment area is presented in Table F. The MFI figures for metropolitan and non-metropolitan areas are adjusted annually by the Federal Financial Institutions Examination Council (FFIEC) based on 2010 U.S. Census data. Table F details information on how the income levels were defined for 2012 and 2013 for MD 35084.

Table F – Adjusted Median Family Income MD 35084					
Year	**Median Family Income**	**Low-Income**	**Moderate-Income**	**Middle-Income**	**Upper-Income**
2012	$91,900	Less than $45,950	$45,950 to less than $73,520	$73,520 to less than $110,280	$110,280 or greater
2013	$90,100	Less than $45,050	$45,050 to less than $72,080	$72,080 to less than $108,120	$108,120 or greater

Source: FFIEC

Table G depicts the bank's distribution of HMDA loans to low-, moderate-, middle-, and upper-income borrowers for calendar years 2012 and 2013. Included in the table is the relevant demographic and aggregate lending data.

Table G – Distribution of HMDA Loans by Borrower Income									
Borrower Income Level	% of Total Families	Aggregate Lending Data (% of #)		2012		2013		Total	
		2012	2013	#	%	#	%	#	%
Low	36.0	5.0	N/A	1	3.6	1	3.9	2	3.7
Moderate	19.7	16.1	N/A	5	17.8	5	19.2	10	18.5
Middle	18.2	22.2	N/A	11	39.3	6	23.0	17	31.5
Upper	26.1	47.4	N/A	11	39.3	13	50.0	24	44.4
$0/NA Income	0.0	9.3	N/A	0	0.0	1	3.9	1	1.9
Total	**100.0**	**100.0**	**N/A**	**28**	**100.0**	**26**	**100.0**	**54**	**100**

Source: 2010 U.S. Census, HMDA Disclosure Statements (2012), HMDA LAR (2012 & 2013), and 2012 HMDA Aggregate Data

As shown in Table G, the bank's 2012 record of lending to the area's low-income borrowers lagged that of the aggregate, while its distribution to moderate-income borrowers compared favorably to aggregate performance. The low overall volume of lending offsets what would otherwise be considered adequate performance.

In 2013, the distribution percentages to both low- and moderate-income borrowers increased slightly. This was due to an overall decrease in lending, as the bank did not increase its volume of lending to either low- or moderate-income borrowers. Similar to 2012, the bank originated just one loan to a low-income borrower in 2013. Likewise, the bank's record of lending to the area's moderate-income borrowers remained the same as 2012 activity, with five originations reported. A review of the bank's YTD 2014 HMDA loan originations in this area reveals performance consistent with 2013 activity.

Although the distribution of the bank's home loans among borrowers of different incomes indicates adequate performance when compared to demographics and aggregate lending data, the low volume of lending activity reflects very poor distribution.

Community Development Lending

During the evaluation period, Union County Savings Bank did not originate any community development loans. The bank also did not originate any community development loans during the prior review period of June 7, 2010, through September 4, 2012. Union County Savings Bank has not originated a community development loan since November 2009.

Innovative or Flexible Lending Practices

Union County Savings Bank makes no use of innovative and/or flexible lending practices to serve assessment area credit needs. The bank has not developed any special in-house mortgage loan programs and does not originate home loans through any state or local government sponsored program benefitting low- or moderate-income borrowers.

INVESTMENT TEST

The institution exhibits very poor responsiveness to credit and community economic development needs. The volume of qualified investments and grants is poor, and the bank does not make use of innovative and/or complex investments to support community development initiatives within its assessment area.

The total qualified investments considered for the current evaluation of $8.6 million represents 0.5 percent of total assets, 0.7 percent of total securities, and 4.2 percent of equity capital. During the evaluation period, the bank did not purchase any new qualified investments. Total qualified community development investments are composed entirely of outstanding balances of prior period investments. These outstanding balances total $8.6 million and represent 29 mortgage-backed instruments collateralized by mortgages originated to low- and moderate-income borrowers located in the bank's assessment area and throughout the State of New Jersey. These investments, purchased prior to 2012, were all offered for sale by the Federal National Mortgage Association and were not considered innovative or complex.

In addition to the remaining balances of the aforementioned CRA qualified investment securities, the bank and its charitable foundation made qualified donations totaling $69,700 during the evaluation period to various community organizations that serve the area. The USCB Charitable Foundation extended all but $200 of these grants and donations. Union County Savings Bank established UCSB Charitable Foundation in 2002 with an endowment of $1.0 million in cash. Income derived from the initial funding is used to bestow financial support to charitable organization throughout the bank's assessment area. The foundation provides grants to help fund programs that address various needs, including education, affordable housing, youth programs, and health and human services. The following summarizes some of the larger donations made by the USCB Charitable Foundation during the evaluation period.

- St. Joseph Social Service Center (the Center): Established in 1983, the Center provides basic needs such as food, closing, and medications to the poor and homeless of the greater Elizabeth, NJ area. The foundation made two donations totaling $20,000 during the evaluation period.
- Community Access Unlimited (CAU): CAU provides multiple services to at-risk youth, persons with intellectual and developmental disabilities, seniors, veterans, and individuals in need of affordable housing. The foundation made donations totaling $20,000 to CAU during the evaluation period.
- Elizabeth Coalition to House the Homeless (ECHH): During the evaluation period, the foundation provided donations totaling $9,000 to this organization that serves the needs of the homeless and near homeless in the Elizabeth, NJ area.

SERVICE TEST

Union County Savings Bank's retail delivery systems are accessible to limited portions of the bank's assessment area, including low- and moderate-income census tracts. The branch network provides reasonable access to services with respect to the location of the brick and mortar locations in Elizabeth, NJ. While services and business hours do not vary in a way that inconveniences portions of the assessment area, the availability and effectiveness of the bank's alternative systems for delivering retail-banking services to low- and moderate-income individuals and geographies is poor. The bank provides a limited level of community development services relative to the bank's resources and the area's community development needs.

Accessibility of Delivery Systems

Delivery systems are accessible to limited portions of the bank's assessment area. In addition to its main office, Union County Savings Bank operates three branch offices. The main office branch is located in Elizabeth, New Jersey in a low-income census tract. One of the branch offices is located in a low-income census tract in Elizabeth, NJ, one branch office is located in a middle-income census tract in Union, NJ, and one branch office is located in an upper-income census tract in Cranford, NJ. Three of the four banking offices have drive-up facilities. All banking offices offer the same menu of financial products and services to customers. Based on the demographics of the assessment area, the bank employs several bi-lingual (Spanish and Portuguese) individuals at its Elizabeth offices to improve access to financial services for non-English speaking customers.

Alternative Delivery Systems

The bank does not offer alternative delivery systems to its customers. For example, the bank does not offer Internet banking, bank-by-phone, or automated teller machine (ATM) services.

Changes in Branch Locations

The bank did not open or close any branch offices during the evaluation period.

Reasonableness of Business Hours and Services in Meeting the Assessment Area Needs

Services and hours of operation do not vary in a way that inconveniences portions of the assessment area. All of the bank's offices have similar hours of operation and all offices remain open in the evening at least one day per week. The bank does not offer any Saturday hours. Three of the bank's four branches offer walk-up and drive-up services with extended hours.

Community Development Services

Union County Savings Bank provides a limited level of community development services. During the evaluation period, the bank conducted some financial seminars and several board members are involved with community organizations. The following provides examples of some of the bank's community development services:

- The bank offers preferential deposit rates to the housing authorities in Elizabeth, Linden, and Summit. These authorities provide housing-related services, primarily to low- and moderate-income individuals.

- A bank director uses his financial expertise serving on the board of a local housing authority in the City of Elizabeth, which is responsible for providing low-income residents with safe and affordable housing.

- A director of the bank provides financial guidance as a member of the board for a local economic development advisory board.

- On a regular basis, the compliance officer provides basic banking training sessions to youth groups who receive assistance from a local community organization.

- The compliance officer also provides his banking expertise and support as a member of local housing and community development organization that provides services to disadvantaged youth and adults with special needs related to a variety of issues including housing needs.

FAIR LENDING OR OTHER ILLEGAL CREDIT PRACTICES REVIEW

The concurrent compliance examination did not identify any substantive violations of the anti-discrimination laws or any evidence of discriminatory or other illegal credit practices inconsistent with helping to meet community credit needs.

APPENDIX A

SCOPE OF EXAMINATION TABLE:

Union County Savings Bank
SCOPE OF EXAMINATION: Union County Savings Bank was examined in accordance with the "Large Bank" CRA performance evaluation procedures.
TIME PERIOD REVIEWED: Lending analysis from January 1, 2012, through September 30, 2014. Community development loans, innovative and/or flexible loan products and programs, qualified community development investments, retail banking services, and community development services from September 4, 2012, through November 6, 2014.
PRODUCTS REVIEWED Home mortgage loans; innovative and/or flexible loan products and programs; community development loans, investments, and services.

LIST OF AFFILIATES AND PRODUCTS REVIEWED		
AFFILIATE(S):	**AFFILIATE RELATIONSHIP:**	**PRODUCTS REVIEWED:**
USCB Foundation	Subsidiary	Donations

LIST OF ASSESSMENT AREAS AND TYPE OF EXAMINATION			
ASSESSMENT AREA:	**TYPE OF EXAMINATION:**	**BRANCHES VISITED:**	**OTHER INFORMATION:**
One assessment area consisting of the entirety of Union County, NJ and parts of Essex County, NJ	Large Bank – Full Scope	None	None

APPENDIX B

GLOSSARY

Aggregate lending: The number of loans originated and purchased by all reporting lenders in specified income categories as a percentage of the aggregate number of loans originated and purchased by all reporting lenders in the metropolitan area/assessment area.

Census tract: A small subdivision of metropolitan and other densely populated counties. Census tract boundaries do not cross county lines; however, they may cross the boundaries of metropolitan statistical areas. Census tracts usually have between 2,500 and 8,000 persons, and their physical size varies widely depending upon population density. Census tracts are designed to be homogeneous with respect to population characteristics, economic status, and living conditions to allow for statistical comparisons.

Community development: All Agencies have adopted the following language. Affordable housing (including multifamily rental housing) for low- or moderate-income individuals; community services targeted to low- or moderate-income individuals; activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301) or have gross annual revenues of $1 million or less; activities that revitalize or stabilize low- or moderate-income geographies; or activities that support, enable or facilitate projects or activities that meet "eligible uses" criteria described in Section 2301(c) of the Housing and Economic Recovery Act of 2008 (HERA) and are conducted in designated target areas identified in plans approved by HUD in accordance with the Neighborhood Stabilization Program (NSP)

Effective September 1, 2005, the Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation have adopted the following additional language as part of the revitalize or stabilize definition of community development. Activities that revitalize or stabilize-

- (i) Low-or moderate-income geographies;
- (ii) Designated disaster areas; or
- (iii) Distressed or underserved nonmetropolitan middle-income geographies designated by the Board, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, based on-
  - a. Rates of poverty, unemployment, and population loss; or
  - b. Population size, density, and dispersion; Activities that revitalize and stabilize geographies designated based on population size, density, and dispersion if they help to meet essential community needs, including needs of low- and moderate-income individuals.

Consumer loan(s): A loan(s) to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. This definition includes the following categories: motor vehicle loans, credit card loans, home equity loans, other secured consumer loans, and other unsecured consumer loans.

Family: Includes a householder and one or more other persons living in the same household who are related to the householder by birth, marriage, or adoption. The number of family households always equals the number of families; however, a family household may also include non-relatives living with the family. Families are classified by type as either a married-couple family or other family, which is further classified into 'male householder' (a family with a male householder and no wife present) or 'female householder' (a family with a female householder and no husband present).

Full-scope review: Performance under the Lending, Investment, and Service Tests is analyzed considering performance context, quantitative factors (for example, geographic distribution, borrower distribution, and total number and dollar amount of investments), and qualitative factors (for example, innovativeness, complexity, and responsiveness).

Geography: A census tract delineated by the United States Bureau of the Census in the most recent decennial census.

Home Mortgage Disclosure Act (HMDA): The statute that requires certain mortgage lenders that do business or have banking offices in a metropolitan statistical area to file annual summary reports of their mortgage lending activity. The reports include such data as the race, gender, and the income of applications, the amount of loan requested, and the disposition of the application (for example, approved, denied, and withdrawn).

Home mortgage loans: Includes home purchase and home improvement loans as defined in the HMDA regulation. This definition also includes multifamily (five or more families) dwelling loans, loans for the purchase of manufactured homes and refinancing of home improvement and home purchase loans.

Household: Includes all persons occupying a housing unit. Persons not living in households are classified as living in group quarters. In 100 percent tabulations, the count of households always equals the count of occupied housing units.

Limited-scope review: Performance under the Lending, Investment, and Service Tests is analyzed using only quantitative factors (for example, geographic distribution, borrower distribution, total number and dollar amount of investments, and branch distribution).

Low-income: Individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a geography.

Market share: The number of loans originated and purchased by the institution as a percentage of the aggregate number of loans originated and purchased by all reporting lenders in the metropolitan area/assessment area.

Metropolitan area (MA): A metropolitan statistical area (MSA) or a metropolitan division (MD) as defined by the Office of Management and Budget. A MSA is a core area containing at least one urbanized area of 50,000 or more inhabitants, together with adjacent communities having a high degree of economic and social integration with that core. A MD is a division of a MSA based on specific criteria including commuting patterns. Only a MSA that has a population of at least 2.5 million may be divided into MDs.

Middle-income: Individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 percent and less than 120 percent, in the case of a geography.

Moderate-income: Individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 percent and less than 80 percent, in the case of a geography.

Multifamily: Refers to a residential structure that contains five or more units**.**

Other products: Includes any unreported optional category of loans for which the institution collects and maintains data for consideration during a CRA examination. Examples of such activity include consumer loans and other loan data an institution may provide concerning its lending performance.

Owner-occupied units: Includes units occupied by the owner or co-owner, even if the unit has not been fully paid for or is mortgaged.

Qualified investment: A qualified investment is defined as any lawful investment, deposit, membership share, or grant that has as its primary purpose community development.

Rated area: A rated area is a state or multistate metropolitan area. For an institution with domestic branches in only one state, the institution's CRA rating would be the state rating. If an institution maintains domestic branches in more than one state, the institution will receive a rating for each state in which those branches are located. If an institution maintains domestic branches in two or more states within a multistate metropolitan area, the institution will receive a rating for the multistate metropolitan area.

Small loan(s) to business(es): A loan included in 'loans to small businesses' as defined in the Consolidated Report of Condition and Income (Call Report) and the Thrift Financial Reporting (TFR) instructions. These loans have original amounts of $1 million or less and typically are either secured by nonfarm or nonresidential real estate or are classified as commercial and industrial loans. However, thrift institutions may also exercise the option to report loans secured by nonfarm residential real estate as "small business loans" if the loans are reported on the TFR as nonmortgage, commercial loans.

Small loan(s) to farm(s): A loan included in 'loans to small farms' as defined in the instructions for preparation of the Consolidated Report of Condition and Income (Call Report). These loans have original amounts of $500,000 or less and are either secured by farmland, or are classified as loans to finance agricultural production and other loans to farmers.

Upper-income: Individual income that is more than 120 percent of the area median income, or a median family income that is more than 120 percent, in the case of a geography.