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**Office of the Comptroller of the Currency  
Federal Deposit Insurance Corporation  
Federal Reserve Board  
Office of Thrift Supervision**

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January 27, 1998

**Interpretive Letter #820  
February 1998  
12 U.S.C. 2901**

Dear [ ]:

This letter responds to your inquiry dated December 10, 1997, about the appropriate amounts to collect as the “gross annual” revenue or income of small business or farm or consumer borrowers under the Community Reinvestment Act (CRA) regulations. As you know, the four federal bank and thrift regulatory agencies promulgated substantially similar CRA regulations on May 4, 1995.<sup>1</sup> Staff from all four agencies have considered your inquiry and concur in the opinions expressed in this letter.

Specifically, you asked whether the bank should collect and report, if appropriate, the gross annual revenue or income of the borrower or the *adjusted* gross annual revenue or income of the borrower, which the bank actually used in making its credit decision. As discussed below, the bank should collect and report, if required, the gross annual revenue or income of the borrower, not the adjusted gross annual revenue or income.<sup>2</sup>

### **Discussion**

#### *Small Business and Small Farm Loans*

Institutions, except small institutions, must collect and maintain, in connection with small business and small farm loans, an “indicator whether the loan was to a business or farm with

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<sup>1</sup> See 12 C.F.R. pts. 25, 228, 345, and 563e.

<sup>2</sup> The agencies’ staff recognize that this guidance regarding small business and consumer loans differs from that provided by the staff of the Federal Reserve Board in connection with home mortgage loans under the Home Mortgage Disclosure Act’s (HMDA) disclosure requirements. When financial institutions provide income information pursuant to HMDA requirements, they are to provide the gross annual income upon which the institution relied in evaluating the creditworthiness of the applicant. See 12 C.F.R. § 203.4(a)(7) & Supp. 1, Comment 4(a)(7)-6.

gross annual revenues of \$1 million or less.”<sup>3</sup> And, based on the small business and small farm loan information collected by the institution, the institution must report annually the aggregate number and amount of loans 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.)”<sup>4</sup>

The supplementary information published with the final CRA regulations discussed the purpose of the collection of small business and small farm revenue information. It stated:

The information on the revenue size of business and farm borrowers is useful because, in combination with loan amount information, it will enable the agencies to make accurate judgments about the size of businesses and farms receiving reported loans. Some commenters questioned whether an institution should report the revenue of the entity to which the loan is actually extended or of its parent corporation if the entity is a subsidiary. An institution should report the revenues that the institution considered in making its credit decision.<sup>5</sup>

As the supplementary information indicates, the purpose of having financial institutions indicate whether a loan is made to a business or farm with revenues of \$1 million or less is to enable examiners and the public to judge more reliably whether the institution is lending to small businesses and farms or whether it is only making small loans to larger businesses and farms.

In their “Interagency Questions and Answers Regarding Community Reinvestment,”<sup>6</sup> staff from the agencies clarified that, when indicating whether a small business borrower had gross annual revenues of \$1 million or less, an institution generally should rely on the revenues of the companies 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

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<sup>3</sup> 12 C.F.R. §§ 25.42(a)(4), 228.42(a)(4), 345.42(a)(4), and 563e.42(a)(4).

<sup>4</sup> 12 C.F.R. §§ 25.42(b)(1)(iv), 228.42(b)(1)(iv), 345.42(b)(1)(iv), and 563e.42(b)(1)(iv).

<sup>5</sup> Community Reinvestment Act Regulations, 60 Fed. Reg. 22,156, 22,173 (May 4, 1995).

<sup>6</sup> 62 Fed. Reg. 52,105 (Oct. 6, 1997).

million.<sup>7</sup>

This additional information about the “revenues that the institution considered in making the loan” is meant to provide guidance to institutions that lend to affiliated companies where repayment may come from either affiliate. In other words, if an institution makes a loan to a subsidiary because it is assured that the parent corporation will repay the loan in case of the subsidiary’s default, the institution should report the aggregate gross annual revenues of both the subsidiary and the parent company.

The regulation provides that financial institutions indicate whether the gross annual revenues of the business or farm are \$1 million or less. Therefore, to ensure consistency, financial institutions should collect gross annual revenues, not adjusted gross annual revenues. If an institution does not request or consider revenue information to make the credit decision regarding a small business or small farm loan, the institution need not collect gross annual revenue information in connection with that loan.<sup>8</sup> Furthermore, the CRA regulations do not require an institution to verify revenue amounts; thus, the institution may rely on the gross annual revenue amount provided by the borrower in the ordinary course of business.

### *Consumer Loans*

In connection with consumer loans, institutions may chose to collect and maintain data for one or more categories of consumer loans. The data collected includes the “gross annual income of the borrower that the bank considered in making its credit decision.”<sup>9</sup> Financial institutions report no consumer loan data. The supplementary information published with the final CRA regulations provides insight on the consumer income data to be collected when an institution chooses to have its loans considered as part of its CRA evaluation:

If the institution does not consider income in making an underwriting decision, it need not collect income information. 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.<sup>10</sup>

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<sup>7</sup> *Id.* at 52,126 (Question and Answer (Q & A) 1 addressing § \_\_.42(a)(4)).

<sup>8</sup> *Id.* (Q & A 2 addressing § \_\_.42(a)(4)). “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.” *Id.*

<sup>9</sup> 12 C.F.R. §§ 25.42(c)(1)(iv), 228.42(c)(1)(iv), 345.42(c)(1)(iv), and 563e.42(c)(1)(iv).

<sup>10</sup> 60 Fed. Reg. at 22,172. This guidance has been adopted in the “Interagency Questions and Answers Regarding Community Development” as Q & A 1 addressing § \_\_.42(c)(1)(iv) (62 Fed. Reg. at 52,127).

The purpose of 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.<sup>11</sup> A financial institution that opts to have one or more categories of consumer loans considered in its CRA evaluation must collect borrower income information only if the institution considered the borrower's gross annual income when making the credit decision. If an institution *does* consider the borrower's income, it should collect and maintain gross annual income of consumer borrowers, not adjusted gross annual income, to provide consistency in income data. The CRA regulations do not require an institution to verify income amounts; thus, the institution may rely on the income amounts provided by the borrower on the loan application.

I trust this letter responds to your inquiry. If you have further questions, please contact me or Margaret Hesse, an attorney on my staff, at (202) 874-5750.

Sincerely,

/s/

Michael S. Bylsma  
Director  
Community and Consumer Law Division  
Office of the Comptroller of the Currency

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<sup>11</sup> 12 C.F.R. §§ 25.23(b)(3)(iv), 228.23(b)(3)(iv), 345.23(b)(3)(iv), and 563e.23(b)(3)(iv).