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

*Interpretive Letter #713
March 1996
12 U.S.C. 2901*

March 4, 1996

[]

Dear []:

This letter responds to your inquiry regarding the application of Community Reinvestment Act (CRA) regulations to your institution's student loan portfolio. As you probably know, the four bank and thrift regulatory agencies finalized new CRA regulations on May 4, 1995. See 60 Fed. Reg. 22,156 (May 4, 1995) (to be codified at 12 C.F.R. parts 25, 228, 345 and 563e). The regulations of the four agencies are substantively identical. Therefore, staff from all of the agencies have considered the issue you raised, and they concur in the opinions expressed in this letter.

You indicate in your letter and subsequent conversations that the institution, [] (Bancorp), is a \$2 billion bank holding company for six banks and that a large part of these banks' loan portfolios consists of student loans. You also note that since the banks make the loans based on a guarantee, the applicant's income information may not be available.

Specifically, you ask:

1. How student loans will be counted in the banks' CRA evaluations;
2. What information the banks need to maintain for these loans;
3. Whether the banks may track income information regarding the loans by census tract rather than by applicant; and
4. If the banks need to track income by applicant, whose income figures should be used, the parent's or the student's.

Response

As a general matter, the CRA regulations establish the framework and criteria by which the regulatory agencies assess an institution's record of helping to meet the credit needs of its community. In making this assessment for large retail banks, the agencies apply lending, investment, and service tests. 12 C.F.R. §§ 25.21(a), 228.21(a), 345.21(a) and 563e.21(a).¹ The lending test evaluates an institution's lending activities by considering an institution's purchase or origination of home mortgage, small business, small farm, and community development loans. 12 C.F.R. §§ 25.22(a), 228.22(a), 345.22(a) and 563e.22(a). In addition, if an institution elects, or if consumer lending constitutes a substantial majority of an institution's business, the agencies will evaluate the institution's consumer loans.² Id.

Because a large part of the portfolio of Bancorp's banks is committed to student loans, it is likely that the agencies will evaluate its banks' student loan portfolios under this provision. However, the decision whether the agencies will evaluate the loans whether or not the banks elect to have them evaluated will be made at the time of the examination. If the banks want to be certain that the agencies will evaluate their student loans, the banks should elect to have the loans considered.

If the banks are willing to leave to the examiners the decision whether their student lending will be evaluated, they need not collect and maintain data about the loans in the standardized format prescribed by the regulation. If, however, the banks want to be certain their student loans will be considered and thus elect to have the loans considered, they must collect and maintain data as described in 12 C.F.R. §§ 25.42(c)(1), 228.42(c)(1), 345.21(c)(1) and 563e.42(c)(1). Pursuant to this provision, an institution 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. However, an institution that maintains data for a certain category of loans also must maintain data for all loans originated or purchased within that category. In other words, an institution that chooses to maintain data for a certain type of unsecured loans, such as student loans, also must maintain data for all other types of unsecured consumer loans.

¹The CRA regulations apply different assessment criteria based upon whether the institution is a small institution, a wholesale or limited purpose institution, or other institution. The regulations define a small institution as an institution that has total assets of less than \$250 million and is independent or an affiliate of a holding company that has total bank and thrift assets of less than \$1 billion. 12 C.F.R. §§ 25.12(t), 228.21(t), 345.21(t) and 563e.21(s). Small institutions are evaluated under the small bank performance standards. 12 C.F.R. §§ 25.21(a)(3), 228.21(a)(3), 345.21(a)(3) and 563e.21(a)(3). The regulations define a wholesale institution as an institution 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. 12 C.F.R. §§ 25.12(w), 228.21(w), 345.21(w) and 563e.21(v). The regulations define a limited purpose institution as an institution 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. 12 C.F.R. §§ 25.12(o), 228.12(o), 345.12(o) and 563e.12(n). Wholesale and limited purpose institutions are evaluated under the community development test. 12 C.F.R. §§ 25.21(a)(2), 228.21(a)(2), 345.21(a)(2) and 563e.21(a)(2). In addition, any institution can request to be evaluated under a strategic plan. 12 C.F.R. §§ 25.21(a)(4), 228.21(a)(4), 345.21(a)(4) and 563e.21(a)(4).

²The CRA regulation defines a consumer loan as "a loan to one or more individuals for household, family, or other personal expenditures." 12 C.F.R. §§ 25.12(k), 228.12(k), 345.12(k) and 563e.12(j).

The provision specifically requires an institution to maintain the following data for each loan originated or purchased within one of the five specified categories:

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

12 C.F.R. §§ 25.42(c)(1), 228.42(c)(1), 345.21(c)(1) and 563e.42(c)(1).

With respect to the final requirement, please note that the income information that must be maintained is for the individual borrower and not for the census tract. The income that should be maintained is the income upon which the institution making the credit decision relied in making the decision, whether that income is the student's or his or her parent's. Also note that the institution need not collect income information in connection with a loan if the income was not considered to make the credit decision. Cf. Questions and Answers on CRA Data Collection and Reporting, OCC Bulletin 96-12 (January 25, 1996) at p. 3 (attached).

I trust that this letter is responsive to your request. You may also be interested to know that the staffs of the four financial supervisory agencies are presently developing a commentary to provide additional guidance for resolving the interpretive questions arising under the new CRA regulations. In the meantime, feel free to contact me or Yvonne D. McIntire, an attorney on my staff, at (202) 874-5750 if you have further questions.

Sincerely,

/s/

Matthew Roberts
Director
Community and Consumer Law