## Background and Summary

The Community Reinvestment Act (CRA) of 1977 (12 USC 2901), as amended, encourages each insured depository institution covered by the Act to help meet the credit needs of the communities in which it operates. The CRA requires that each Federal financial supervisory agency assess the record of each covered depository institution in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operations. Each agency must take that record into account when deciding whether to approve an application by the institution for a deposit facility.

LINKS

- Program: Small
- Program: Intermediate Small
- Program: Large Retail
- Program: Limited/Wholesale
- Program: Strategic Plans
- Appendix A: CRA Ratings Matrix

Neither the CRA nor its implementing regulations inject hard and fast rules or ratios into the examination or application processes. Rather, the law contemplates an evaluation of each lender's record that can accommodate individual circumstances. Neither the CRA nor its implementing regulations require financial institutions to make high-risk loans that jeopardize their safety. To the contrary, the law makes it clear that lending that meets an institution's CRA responsibilities should be done within the bounds of safety and soundness. Rebuilding and revitalizing communities through sound lending and good business judgment should benefit both the communities and financial institutions.

An institution's capacity to help meet community credit needs is influenced by many factors, including its financial condition and size, resource constraints, legal impediments and local economic conditions that could affect the demand and supply of credit. You must consider these factors when evaluating an institution's performance under CRA. This is consistent with a fundamental underpinning of the CRA regulations - that the differences in institutions and the communities in which they do business preclude rigid and inflexible rules.

The CRA regulations and examination procedures embody clear, flexible, and sensible performance criteria that:

- Accommodate differences in institutions and their communities.
- Minimize burden.

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- Promote consistency and objectivity.
- Allow you to be guided by common sense rather than adherence to mechanistic procedures.

For example, the CRA regulations provide for different evaluation methods to respond to basic differences in institutions' structures and operations. The regulations provide a streamlined assessment method for small institutions that emphasizes lending performance; an assessment method for small institutions that emphasize lending performance and community development; an assessment method for large, retail institutions that focuses on lending, investment, and service performance; and an assessment method for wholesale and limited-purpose institutions based on community development activities. Further, the regulations give any institution, regardless of size or business strategy, the choice to be evaluated under a strategic plan. This type of flexibility and customizing should permit institutions to be evaluated fairly and in conformance with their business approach.

## Examination Burden Reduction

The complementary regulatory themes of flexibility, responsiveness, and objectivity are extended to the examination process as part of an overarching effort, among other things, to reduce the burden of the regulations and the examination on institutions. Indeed, both the regulations and the examination procedures reflect a conscientious effort to minimize burden on financial institutions. For example, you are encouraged to draw on the results of an institution's previous examinations for information about major product lines, business strategy, and supervisory restrictions. This information is typically available from agency sources and, often, can be reviewed off-site. Further, you should already have knowledge of an institution's community and local demographics from your own past visits to the institution or to others in the same area. In these cases, you should be able to develop a good understanding of the context in which an institution operates before the actual examination begins, and then supplement and update that understanding upon arrival at the institution.

The regulations focus on performance-based criteria, rather than process or documentation. Institutions are not to be evaluated on how well they ascertain community credit needs, market and advertise their products, or how actively members of their boards of directors participate in local community organizations or civic groups. Consequently, the paperwork burden long associated by institutions with these past evaluation factors has been eliminated, as has any consideration of these factors from the examination process.

This sets the stage for a more constructive, credible, efficient, and unobtrusive examination process that concentrates on results. Both the regulations and the examination procedures promote and establish evaluation methods based on reviewing objective data that institutions can also use to measure their own performance. This should further minimize burden since examination results will be more understandable and, over time, more predictable.

Rather than a "one size fits all" examination, we developed separate procedures for small, intermediate small, and large savings associations. We also have procedures for wholesale or limited purpose associations that are operating under an approved strategic plan. Further, you are expected to use common sense to tailor the examination to mitigate the burden on the institution. For instance, you can perform some examination procedures in advance of the on-site examination. This tailoring allows you to take reasonable steps to reduce burden while ensuring that the examination process is more understandable for the institution.

### Performance Context

You should evaluate an institution's performance under the regulatory assessment criteria in the context of information about the institution, its community, and its competitors, such as:

- Demographic and economic data about the institution's assessment area(s).
- Information about local economic conditions.
- The institution's major business products and strategies.
- Its financial condition, capacity, and ability to lend or invest in its community.

In addition, you can facilitate your review by gathering information from the following sources:

- Examinations of other institutions serving the same or similar assessment areas.
- Reviewing information from other recent community contacts.
- Reviewing information about the assessment area developed cooperatively by the different agencies.

You will also review information an institution chooses to provide about lending, investment, and service opportunities in its assessment area(s), as applicable. You should not, however, require the institution to create such information, nor should you ask for any information other than what the institution may already have developed as part of its normal business practice. Additionally, you should not evaluate an institution on its efforts to ascertain community credit needs, market its products, geocode its loans, or record CRA-related discussions in its board minutes nor rate an institution on the quality of any contextual information that it may provide.

### Role of Community Contacts

Interviews with local community, civic, or government leaders can help you learn about the community, its economic base, and local community development initiatives. They can also help you understand public perceptions of how well local institutions are responding to credit needs. These interviews help provide balance to your understanding of the performance context. Community contact interviews normally take the form of personal meetings, but telephone conversations or larger group meetings may also be appropriate.

Information from community contacts can provide you with valuable insights, particularly if you have relatively little experience or familiarity with an institution's assessment area. Contacts may be made as part of an examination, or prior to the start of an examination, and typically will be conducted by the examiners responsible for the CRA examination. In addition, wherever possible, the agencies will draw on recent local interviews conducted by other agency staff, or by other regulatory agencies with CRA responsibilities.

## Assessment Area Considerations

Institutions must identify one or more assessment areas within which the agencies will evaluate the institution's performance. In most cases, the institution's assessment area will be the town, municipality, county, metropolitan division, some other political subdivision, or the metropolitan statistical area (MSA) in which its branches are located and a substantial portion of its loans are made. An assessment area may be adjusted where the boundaries of a political subdivision would otherwise be too large for the institution to serve, have an unusual configuration, or would include significant geographic barriers. When the assessment area coincides with recognized political subdivisions, or has not changed in any way since the previous examination, you need not conduct a comprehensive reevaluation of the assessment area.

When evaluating an institution's performance, you should use the assessment area designated by the institution provided that it meets regulatory criteria. If the institution's assessment area does not meet the regulatory criteria, you should revise the assessment area so that it complies with the regulations. Discuss the revisions with institution management and use the revised assessment area to evaluate performance. However, unless the assessment area reflects illegal discrimination, you should not consider problems with the designation of the assessment area when assigning a rating to the institution. Consequently, you should try to minimize any burden associated with the delineation of communities and inconsistencies resulting from your criticizing community delineations as being too large at one examination and too small at the next.

## Small Savings Association Performance Criteria

The effect of regulatory and examination burden can be more pronounced in small savings associations. Limited financial resources and staffing, and competitive factors often influence the way that small institutions can meet their responsibilities under CRA. In recognition of these factors, the regulations established a streamlined assessment method for small institutions that significantly reduces examination burden. The regulations contain only five performance criteria:

1. The institution's loan to deposit ratio adjusted for seasonal variation and, as appropriate, other lending related activities such as secondary market participation, community development loans or qualified investments.

2. The percentage of loans and other lending-related activities located in the institution's assessment area.

3. The distribution of lending among borrowers of different income levels and business and farms of different sizes.

4. The distribution of lending among geographies of different income levels.

5. The institution's record of taking action, if warranted, in response to written complaints about its CRA performance.

Small institutions are eligible for an "Outstanding," or "Satisfactory" rating. You may conclude that an institution's performance so exceeds the standards for a Satisfactory rating under the five core criteria that it merits a rating of Outstanding. In addition, at the institution's option, you should consider the institution's performance in making qualified investments and in providing services that enhance credit availability in its assessment area(s) in order to determine whether the institution merits an Outstanding rating.

In carrying out your examination responsibilities, you should exercise common sense in deciding how much material to review and what steps are necessary to reach an accurate conclusion. For example, if an institution's assessment area is comprised of only a few geographies, a geographic analysis of loans within the assessment area may be inappropriate or unnecessary. Or, if an institution has done an analysis to determine where, and to whom, it is making loans in its assessment area to assist itself in its business efforts, you may be able to validate and then use the institution's analysis rather than conduct a detailed analysis of your own. In other words, when evaluating the performance criteria, you should always consider and use available, reliable information.

Similarly, if an institution's loan-to-deposit ratio appears low, the examination procedures ask you to evaluate the institution's lending-related activities, such as loan sales and community development lending and investments to determine if they materially supplement its lending performance as reflected in its loan-to-deposit ratio. However, such an analysis may not be necessary or a less extensive analysis may be sufficient if the loan-to-deposit ratio is high.

## Intermediate Small Savings Association Performance Criteria

The intermediate small savings association performance criteria – the Lending and Community Development Tests – cover all institutions with assets of $250 million or more, but less than $1 billion. OTS evaluates these institutions under the small bank lending criteria, and the following community development performance criteria:

- The number and dollar amount of community development loans.
- The number and dollar amount of qualified investments
- The extent to which the bank provides community development service.
- The bank's responsiveness through such activities to community development lending, investment, and services needs.

## Large Retail Savings Association Performance Criteria

The large retail savings association performance criteria – the Lending, Investment, and Service Tests – cover all institutions with assets of $1 billion or more unless they requested designation and received approval as wholesale or limited-purpose savings associations or have been approved for evaluation under a strategic plan.

As under the streamlined small association procedures, you are expected to exercise judgment and common sense to minimize the burden imposed by the examination process, consistent with a complete and accurate assessment of performance. Therefore, for example, you may be able to use economic and demographic data analyzed in an examination of one institution in examinations of other institutions serving the same or similar assessment areas. Community contacts may also be combined to cover more than one institution in a given market. In cases where an institution has analyzed its CRA performance, you may use those analyses, after verifying their accuracy and reliability, and should supplement those analyses only where questions are raised. You should consider any performance related information offered by an institution but should not request information not called for by examination procedures.

Large institutions do face burdens that small institutions do not, particularly related to data collection and reporting. However, the existence of those data in automated form will permit you to conduct much of the necessary analysis prior to the on-site examination and thereby reduce any disruptions caused by your presence at the institution. As in small institutions, you must be sensitive to the burden of the examination process and use judgment and common sense when conducting examinations, performing only those steps necessary to arrive at an accurate assessment of the institution's performance.

## Wholesale/Limited-Purpose Performance Criteria

In order to be evaluated under the Community Development Test, an institution must be designated as a wholesale or limited-purpose savings association following submission of a written request to its primary regulator. Once an institution has received a designation, it will not normally have to reapply for that designation. The designation will remain in effect until the institution requests that it be revoked or until one year after the agency determines that the institution no longer satisfies the criteria for designation and notifies the institution of this determination.

Wholesale or limited-purpose institutions are evaluated on the basis of their:

- Community development lending, qualified investments, or community development services.
- Use of innovative or complex qualified investments, community development loans, or community development services and the extent to which investments are not routinely provided by private investors.
- Responsiveness to community credit and development needs.

You must be cognizant of the context within which a wholesale or limited-purpose institution operates. You should recognize that these institutions may tailor their community development activities based on their own circumstances and the community development opportunities available to them in their assessment areas or the broader statewide or regional areas that include the assessment areas.

Institutions need not engage in all three categories of community development activities to be considered satisfactory under the community development test. Community development loans, investments and services can be directed to a statewide or regional market that includes the institution's assessment area and still qualify for consideration under the community development test as benefiting the assessment area. Moreover, if an institution has a satisfactory community development record in its assessment area, you should consider all community development activities regardless of their location.

As with other performance tests, in applying the community development test, you should perform only those analyses that are necessary to reach an accurate conclusion about the institution's performance, use all available, reliable information, and avoid duplication of effort to reduce burden.

## Strategic Plans

The regulations permit any institution to develop, and submit for approval by its primary supervisory agency, a strategic plan for addressing its responsibilities with respect to CRA. The regulations require that the plan be developed in consultation with members of the public and that it be published for public comment. The plan must contain measurable annual goals. A single plan can contain goals designed to achieve only a Satisfactory rating or, at the institution's option, can contain goals designed to achieve a Satisfactory rating, as well as goals designed to achieve an Outstanding rating.

This approach to addressing an institution's CRA responsibilities presents an opportunity for a very straightforward examination. The first question you should investigate is whether the institution met its goals. If the institution met its goal, assign the appropriate rating. The appropriateness of the goals will have already been determined in the process of public comment and agency review and approval. Consequently, further investigation relating to the context of the institution should not be necessary. Obviously, if the institution did not meet some or all of the plan's goals, you must evaluate whether the institution met a substantial number of goals and, in doing so, exercise some judgment regarding the degree to which the institution missed the goals and the causes.

However, you should approach an examination of an institution operating under a plan understanding that part of the purpose for these regulatory provisions was to give the institution significant latitude in designing a program that is appropriate to its own capabilities, business strategies, and organizational framework, as well as to the communities that it serves. Consequently, the institution may develop plans for a single assessment area that it serves, for some of the assessment areas that it serves, or for all of them. It may develop a plan that incorporates and coordinates the activities of various affiliates. It will be your challenge to evaluate institutions operating under one plan or a number of plans in a way that accurately reflects the results achieved and that sensibly wraps that evaluation into the overall assessment of the institution.

As with other aspects of the CRA examination, you should first make the greatest use possible of information available from the agencies to evaluate performance under the plan. However, it is likely that some elements of a plan under review will not be reflected in public or other agency data. Consequently, you may, due to necessity, have to ask the institution for the data necessary to determine whether it has met its goals. You should do so, to the greatest extent possible, by asking the institution to provide data for review prior to going on-site for the examination. You should also seek to mitigate burden by, wherever possible, using data in the form maintained by the institution.

### Ratings and Public Evaluations

Under each of the CRA assessment methods, OTS assigns an institution one of the four component ratings. They are:

- Outstanding record of meeting community credit needs.
- Satisfactory record of meeting community credit needs.
- Needs to improve record of meeting community credit needs.
- Substantial noncompliance in meeting community credit needs.

OTS judges an institution's performance under the tests and standards in the rule in the context of information about the institution, its community, its competitors, and its peer. Descriptions of the performance necessary to attain each rating are found in Appendix A of this section. An institution'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 aspect may compensate for weak performance in others. The institution's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as described in Appendix A. In addition, OTS adjusts the evaluation of an institution's performance under the applicable assessment method in accordance with 12 CFR § 563e.21 and § 563e.28. These regulatory provisions allow adjustments on the basis of evidence of discriminatory or other illegal credit practices.

At the conclusion of each examination, OTS prepares a written public evaluation of the institution's record of meeting the credit needs of its entire community, including low-and moderate-income neighborhoods. This evaluation assigns a rating to the institution's performance in helping to meet the credit needs of its community and contains a statement describing the basis for the rating. In addition, each public evaluation states the your conclusions, and the facts supporting those conclusions for each assessment factor described in the regulation for the examination method used. These conclusions and supporting facts are presented separately for each metropolitan area in which the institution maintains one or more branch offices.

If the institution has branch offices in two or more states, the public evaluation contains a separate rating and written evaluation of the institution's record of performance in each state where it maintains branches in addition to the evaluation of the entire institution's record of CRA performance. The state level evaluation separately presents the institution's performance in each MSA where it has branches and a discussion of its performance in the nonmetropolitan area of the state if the institution maintains one or more branch offices in the nonmetropolitan area of the state. In the case where an institution has branches in two or more states within a multistate metropolitan area, the public evaluation separately rates and evaluates performance for the multistate metropolitan area and adjusts the related state evaluations accordingly. Public evaluations also describe how OTS performed the examination of the institution and include a list of the individual branches it examined.

## REFERENCES

### Laws and Regulations

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| 12 USC § 2901 et seq. | Community Reinvestment Act |
| 12 CFR Part 563e | Office of Thrift Supervision CRA Regulation |
| 66 Fed Reg 36620 et seq. (July 12, 2001) | Interagency Questions and Answers Regarding Community Reinvestment |
| 69 Fed Reg 51155 (August 18, 2004) | CRA Final Rule |
| 72 Fed Reg 13429 (March 22, 2007) | CRA Final Rule |

### OTS Guidance

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| CEO Memo 232 | CRA Consideration for Activities Related to Hurricanes Rita and Katrina (12/20/2005) |

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# Community Reinvestment Act Examination Procedures for Small Savings Associations Program

## EXAMINATION SCOPE

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1. For institutions (interstate and intrastate) with more than one assessment area, select assessment areas for on-site 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:

- the lending opportunities in the different assessment areas;
- the level of the institution's lending activity in the different assessment areas, particularly 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]
- 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;
- the existence of apparent anomalies in the reported HMDA data for any particular assessment area(s);
- the length of time since the assessment area(s) was last examined on-site;
- the institution's prior CRA performance in different assessment areas;
- Your experience in the same or similar assessment areas; and
- comments from the public regarding the institution's CRA performance.

[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.

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2. For interstate institutions, a rating must be assigned for each state where the institution has a branch and for each multistate 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 examinations using these procedures.

## EXAMINATION PROCEDURES

See Appendix A to the CRA Handbook Section for Small Savings Associations.

### *Performance Context*

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

2. Obtain for review the Thrift Financial Reports (TFRs), Uniform Thrift Performance Reports (UTPRs), 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.

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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:

- consists of one or more MSAs/MDs or contiguous political subdivisions (e.g., counties, cities, or towns);
- 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;
- consists only of whole census tracts;
- 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;

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- does not reflect illegal discrimination; and
- 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.

### *Performance Criteria*

#### Loan-to-Deposit Analysis

1. From data contained in TFRs or 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.

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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 dollar amount 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 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.

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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 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).

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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

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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:

- information about the institution's size, branch network, financial condition, supervisory restrictions (if any) and prior CRA record;
- information from discussions with management, loan officers, and members of the community;
- information about economic conditions, particularly in the assessment area(s);
- information about demographic or other characteristics of particular geographies that could affect loan demand, such as the existence of a prison or college; and
- 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 work papers conclusions concerning the geographic distribution of loans and the distribution of loans by borrower characteristics in the institution's assessment area(s).

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# Community Reinvestment Act Examination Procedures for Small Savings Associations Program

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## 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 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.

## 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.

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2. To evaluate the institution's performance in making qualified investments that enhance credit availability in its assessment area(s), consider:

- the dollar amount of qualified investments, by type and location;
- the impact of those investments on the institution's assessment area(s); and
- 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:

- the number of branches and ATMs located in the institution's assessment area(s);
- 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;
- the type and level of service(s) offered at branches and ATMs and alternative delivery systems; and
- 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 multistate MSA, group the assessment areas that are in that MSA.

[3] The reference to MSA may also reference MD.

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2. Summarize conclusions about the institution's performance in each MSA and the nonmetropolitan portion of each state in which an assessment area was examined using these procedures. If two or more assessment areas in an MSA or in the nonmetropolitan portion of a state were examined using these procedures, weigh the different assessment areas considering such factors as:

- the significance of the institution's activities in each compared to the institution's overall activities;
- the lending opportunities in each;
- 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
- demographic and economic conditions in each.

3. For assessment areas in MSAs and nonmetropolitan areas that were not examined using these 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 examined on-site.

4. For institutions operating in only one multistate 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:

- the significance of the institution's activities in each compared to the institution's overall activities;
- the lending opportunities in each;

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- 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
- 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 multistate 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:

   - the significance of the institution's activities in each compared to the institution's overall activities;
   - the lending opportunities in each;
   - 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
   - demographic and economic conditions in each.

6. Consult the Small Savings Associations Ratings Matrix and information in work papers to assign a preliminary rating of:

   - "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;
   - "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

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- "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 multistate MSA, assign a preliminary rating to the institution as a whole taking into account the institution's record in different states or multistate MSAs by considering:

- the significance of the institution's activities in each compared to the institution's overall activities;
- the lending opportunities in each;
- 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
- demographic and economic conditions in each.

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8. Review the results of the fair lending component 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:

- the nature, extent, and strength of the evidence of the practices;
- the policies and procedures that the institution (or affiliate, as applicable) has in place to prevent the practices;
- any corrective action the institution (or affiliate, as applicable) has taken, or has committed to take, particularly voluntary corrective action resulting from self-assessment; and
- 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 multistate MSA in which it has branches in two or more states, considering:

- the institution's preliminary rating; and
- any evidence of discrimination or other illegal credit practices (see step 8 above).

[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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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, 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:

   - 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);

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- the institution's most recent CRA Public Performance Evaluation;
- 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;
- 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;
- the HMDA Disclosure Statement for the prior two calendar years, if applicable;
- the institution's loan-to-deposit ratio for each quarter of the prior calendar year;
- 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
- 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.

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.

## EXAMINER'S SUMMARY, RECOMMENDATIONS, AND COMMENTS

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# Community Reinvestment Act Examination Procedures for Intermediate Small Savings Associations Program

## EXAMINATION SCOPE <u>WKP. REF.</u>

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:

   - 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;
   - 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 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]
   - 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;
   - The existence of apparent anomalies in the reported data for any particular assessment area(s);
   - The length of time since the assessment area(s) was last examined using a full scope review;
   - The institution's prior CRA performance in different assessment areas;

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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 underserved nonmetropolitan middle-income geographies will be made available on the FFIEC web site at www.ffiec.gov.

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- Your knowledge of the same or similar assessment areas; and
- 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 multistate 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 multistate MSA/MD where the institution has branches in two or more states that comprise that MSA/MD.

## EXAMINATION PROCEDURES

See Appendix A to the CRA Handbook Section for Immediate Small Savings Associations.

### *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 Thrift Financial Reports (TFRs), Uniform Thrift Performance Reports (UTPRs), 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, qualified investments and community development services.

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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 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:

- 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;
- 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

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- 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:

   - consists of one or more MSAs/MDs or contiguous political subdivisions (e.g., counties, cities, or towns);
   - 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;
   - consists only of whole census tracts;
   - 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;
   - does not reflect illegal discrimination; and
   - does not arbitrarily exclude any low- or moderate-income area(s), taking into account the institution's size, branching structure, and financial condition.

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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.

### *Performance Criteria*

#### Loan-to-Deposit Analysis

1. From data contained in TFRs or 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).

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3. If the loan-to-deposit ratio does not appear reasonable in light of the performance context, consider whether the number and dollar 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 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

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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 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

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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:

- information about the institution's size, branch network, financial condition, supervisory restrictions (if any) and prior CRA record;
- information from discussions with management, loan officers, and members of the community;
- information about economic conditions, particularly in the assessment area(s);
- information about demographic or other characteristics of particular geographies that could affect loan demand, such as the existence of a prison or college; and
- information about other lenders serving the same or similar assessment area(s).

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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).

### 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 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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# Community Reinvestment Act Examination Procedures for Intermediate Small Associations Program

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## 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. You 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 dollar 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:

   - Community development loans, qualified investments, and community development services provided by affiliates, if they are not claimed by any other institution; and
   - 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.

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4. Considering the institution's capacity and constraints and other information obtained through the performance context review, form conclusions about:

- The number and dollar amount of community development loans and qualified investments;
- 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.
- The responsiveness to the opportunities for community development lending, qualified investments, and community development services, considering:
  - — The results of any assessment of community development needs and opportunities provided by the institution;
  - — Your review of performance context information from community, government, civic, and other sources; and
  - — 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.

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### *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 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:

   - the significance of the institution's activities in each compared to the institution's overall activities;
   - the retail lending and community development opportunities in each;
   - 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
   - demographic and economic conditions in each.

3. For assessment areas in MSAs and non-MSA areas that were not examined using the full scope 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 that received full scope examinations.

[3] The reference to MSA may also reference MD.

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4. For institutions operating in only one multistate 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:

- the significance of the institution's activities in each compared to the institution's overall activities;
- the retail lending and community development opportunities in each;
- 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
- 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 multistate 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:

- the significance of the institution's activities in each compared to the institution's overall activities;
- the retail lending and community development opportunities in each;
- 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
- demographic and economic conditions in each.

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6. Consult the Intermediate Small Savings Associations Ratings Matrix (lending and community development) and information in work papers to assign a preliminary rating of:

- "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;
- "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
- "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 multistate MSA, assign a preliminary rating to the institution as a whole taking into account the institution's record in different states or multistate MSAs by considering:

- the significance of the institution's activities in each compared to the institution's overall activities;
- the retail lending and community development opportunities in each;
- 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

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- 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 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 multistate 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:

   - the nature, extent, and strength of the evidence of the practices;
   - the policies and procedures that the institution (or affiliate, as applicable) has in place to prevent the practices;
   - 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
   - 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 multistate MSA in which it has branches in two or more states, considering:

   - the institution's preliminary rating; and
   - Any evidence of discrimination or orther illegal credit practices (see #8 above).

[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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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, 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:

   - 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);
   - the institution's most recent CRA Public Performance Evaluation;

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- 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;
- 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;
- the HMDA Disclosure Statement for the prior two calendar years for the institution and for each nondepository affiliate the institution has elected to include in assessment of its CRA record, if applicable;
- the institution's loan-to-deposit ratio for each quarter of the prior calendar year;
- 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
- 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.

3. In any branch review undertaken, determine whether the branch provides the most recent public evaluation and a list of services generally available at the branch 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 branches).

## EXAMINER'S SUMMARY, RECOMMENDATIONS, AND COMMENTS

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# Community Reinvestment Act Examination Procedures for Large Retail Savings Associations Program

## EXAMINATION SCOPE

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For all large, retail savings associations (interstate and intrastate) with more than one assessment area (AA), select assessment areas for a full scope review. A full scope review is accomplished when you complete all of the procedures for an assessment area. For interstate institutions, a minimum of one AA from each state, and a minimum of one AA from each multistate metropolitan statistical area/metropolitan division (MSA/MD), must be reviewed using the examination procedures.

1. Review prior CRA performance evaluations, available community contact materials, and 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.

   - The lending, investment, and service opportunities in the various assessment areas, particularly areas where the need for bank credit, investments and services is significant.
   - The level of the institution's lending, investment, and service activity in the various assessment areas, particularly 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]
   - The number of other institutions in the various assessment areas and the importance of the institution under examination in serving the various areas, particularly any areas with relatively few other providers of financial services.

[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.

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- Comments and feedback received from community groups and the public regarding the institution's CRA performance.
- The size of the population.
- The existence of apparent anomalies in the reported CRA or HMDA data for any particular assessment area(s).
- The length of time since the assessment area(s) was reviewed.
- The institution's prior CRA performance in its various assessment areas.
- Your knowledge of the same or similar assessment areas.
- Issues raised during CRA examinations of other institutions and prior community contacts in the institution's assessment areas or similar assessment areas.

## EXAMINATION PROCEDURES

See Appendix A to the CRA Handbook Section for Large Retail Savings Associations.

### *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.

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2. Obtain for review the Thrift Financial Reports (TFRs), Uniform Thrift Performance Reports (UTPRs), 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, 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 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:

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- 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;
- 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
- 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:

- consists of one or more MSAs/MDs or contiguous political subdivisions (i.e., counties, cities, or towns);
- 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;
- consists only of whole census tracts;
- 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;
- does not reflect illegal discrimination; and

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- 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 this fact in arriving at the institution's rating.

## Lending, Investment, and Service Tests

### *Lending Test*

1. Identify the institution's loans to be evaluated by reviewing:

   - the most recent HMDA and CRA Disclosure Statements, the interim HMDA LAR, and any interim CRA loan data collected by the institution;
   - 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; and
   - any other information the institution chooses to provide, such as small business loans secured by nonfarm 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

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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:

- 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;
- 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 multi-family 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; and
- 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

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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:

- (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;
- 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);
- 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);
- 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;

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- the number and dollar amount of multi-family loans in each geography compared to the number of multi-family structures in each geography;
- 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; and
- 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, you 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:

- the reported loan category is substantially related to the institution's business strategies;
- the area under analysis substantially overlaps the institution's assessment area(s);
- 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); and
- 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).

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7. Using the analysis from step 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:

- 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);
- the number of lenders with assessment area(s) substantially overlapping the institution's assessment area(s);
- the reasons for penetration of these areas by other lenders, if any, and the lack of penetration by the institution being examined developed through discussions with management and the community contact process;
- 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;
- 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
- 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.

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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:

- 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;
- 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;
- 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;
- the number and dollar 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 dollar amount of small loans to businesses or farms; and
- 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 number and dollar amount of the institution's community development loans. Using information obtained in the performance context procedures, especially with regard to community credit needs and institutional capacity, evaluate the extent, innovativeness, and complexity of community development lending to determine:

- the extent to which community development lending opportunities have been available to the institution;

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- the institution's responsiveness to the opportunities for community development lending; and
- the extent of leadership the institution has demonstrated in community development lending.

11. 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:

    - 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
    - the success of each product, including number and dollar amount of loans originated during the review period.

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

13. Summarize your conclusions regarding the institution's lending performance under the following criteria:

    - lending activity;
    - geographic distribution;
    - borrower characteristics;
    - community development lending; and
    - use of innovative or flexible lending practices.

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14. Prepare comments for the public evaluation and the examination report.

### *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). This review should encompass qualified investments 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.

2. Evaluate investment performance by determining:

   - whether the investments benefit the institution's assessment area(s) or a broader statewide or regional geographic area that includes the institution's assessment area(s);
   - whether the investments have been considered under the lending and service tests;
   - whether an affiliate's investments, if considered, have been claimed by another institution;
   - the dollar amount of investments made to entities that are in or serve the assessment area, in relation to the institution's capacity and constraints, and assessment area characteristics and needs;
   - the use of any innovative or complex investments, in particular those that are not routinely provided by other investors; and

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- 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 are responsive to available opportunities for qualified investments.

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

4. Summarize conclusions about the institution's investment performance after considering:

   - the number and dollar amount of qualified investments;
   - the innovativeness and complexity of qualified investments;
   - the degree to which these types of investments are not routinely provided by other private investors; and
   - the responsiveness of qualified investments to available opportunities.

5. Write comments for the public evaluation and the examination report.

### *Service Test*

#### Retail Banking Services

1. Determine from information available in the institution's Public File:

   - the distribution of the institution's branches among low-, moderate-, middle-, and upper-income geographies in the institution's assessment area(s); and

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- 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.).

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## Community Development Services

1. Identify the institution’s community development services, including at the institution’s option, services through affiliates, through discussions with management and a review of materials available from the public. Determine whether the services:

   - qualify under the definition of community development services;
   - benefit the assessment area(s) or a broader statewide or regional area encompassing the institution’s assessment area(s); and
   - if provided by affiliates of the institution, are not claimed by other affiliated institutions.

2. Evaluate in light of information gathered through the performance context procedures:

   - the extent of community development services offered and used;
   - their innovativeness, including whether they serve low- or moderate-income customers in new ways or serve groups of customers not previously served; and
   - the degree to which they serve low- or moderate-income areas or individuals and their responsiveness to available opportunities for community development services.

3. Discuss with management the preliminary findings.

4. Summarize conclusions about the institution’s system for delivering retail banking and community development services, considering:

   - the distribution of branches among low-, moderate-, middle-, and upper-income geographies;

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- 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;
- the availability and effectiveness of alternative systems for delivering retail banking services;
- the extent to which the institution provides community development services;
- the innovativeness and responsiveness of community development services; and
- the range and accessibility of services provided in low-, moderate-, middle-, and upper-income geographies.

5. Write comments for the public evaluation and the examination report.

### *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 area of each state in which an assessment area was examined using these procedures. If two or more assessment areas in an MSA or in a nonmetropolitan area of a state were examined using these procedures, determine the relative significance of the institution's performance in each assessment area by considering:

[3] The reference to MSA may also reference MD.

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- The significance of the institution's lending, qualified investments, and lending-related services in each compared to the institution's overall activities.
- The lending, investment, and service opportunities in each.
- The significance of the institution's lending, qualified investments, and lending-related services for each, particularly in light of the number of other institutions and the extent of their activities in each.
- Demographic and economic conditions in each.

3. Evaluate the institution's performance in those assessment area(s) not selected for examination using the procedures.

- 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.
- Through a review of the public file(s), consider any services that are customized to the assessment area.
- 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 area of the state, where one or more assessment areas were examined using the procedures, ensure that performance in the assessment areas not examined using the procedures is consistent with the conclusions based on the assessment areas examined in step 2, above. Select one of the following options for inclusion in the public evaluation:

- 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 area of the state] that were reviewed using the examination procedures.

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- 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 area of the state] that were reviewed using the examination procedures; however, it does not change the conclusion for the [MSA/nonmetropolitan area of the state].

5. For MSAs, and the nonmetropolitan areas of the state, where no assessment area was examined using the 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 area of the state, form a conclusion regarding the institution's performance in the MSA, or the nonmetropolitan area of the state. Determine the relative significance of the institution's performance in each assessment area within the MSA, or nonmetropolitan area of the state, by considering:

- The significance of the institution's lending, qualified investments, and lending-related services in each compared to the institution's overall activities.
- Demographic and economic conditions in each.

Also, select one of the following options for inclusion in the public evaluation:

- 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].
- 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.

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6. To 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:

- The significance of the institution's lending, qualified investments, and lending-related services in each compared to the institution's overall activities.
- The lending, investment, and service opportunities in each.
- The significance of the institution's lending, qualified investments, and lending-related services for each, particularly in light of the number of other institutions and the extent of their activities in each.
- Demographic and economic conditions in each.

7. 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** | **Lending** (points) | **Investment** (points) | **Service** (points) |
|---|---|---|---|
| Outstanding | 12 | 6 | 6 |
| High satisfactory | 9 | 4 | 4 |
| Low satisfactory | 6 | 3 | 3 |
| Needs to improve | 3 | 1 | 1 |
| Substantial Noncompliance | 0 | 0 | 0 |

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8. 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 | Total Points |
|---|---|
| Outstanding | 20 points or over |
| Satisfactory | 11 through 19 |
| Needs to Improve | 5 through 10 |
| Substantial Noncompliance | 0 through 4 |

9. 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.

10. For institutions with branches in more than one state or multistate MSA, assign a preliminary overall rating. To determine the relative importance of each state and multistate MSA to the institution's overall rating, consider:

- The significance of the institution's lending, qualified investments, and lending-related services in each compared to the institution's overall activities.
- The lending, investment, and service opportunities in each.
- The significance of the institution's lending, qualified investments, and lending-related services for each, particularly in light of the number of other institutions and the extent of their activities in each.

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- Demographic and economic conditions in each.

11. 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 uncovered, consider the following:

- The nature, extent, and strength of the evidence of the practices.
- The policies and procedures that the institution (or affiliate, as applicable) has in place to prevent the practices.
- Any corrective action the institution (or affiliate, as applicable) has taken or has committed to take, particularly voluntary corrective action resulting from a self-assessment.
- Any other relevant information.

12. Assign final overall rating to the institution, considering the preliminary rating and any evidence of discriminatory or other illegal credit practices, and discuss conclusions with management.

[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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13. 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 public evaluation and examination report.

14. 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:

- 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);
- the institution's most recent CRA Public Performance Evaluation;
- 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;

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- 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;
- 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;
- the institution's CRA disclosure statements for the prior two calendar years;
- 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;
- 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
- if applicable, the number and dollar amount of consumer loans made to the four income categories of borrowers and geographies (low, moderate, middle and upper), and the number and dollar amount located inside and outside of the assessment area(s).

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 availability or cost of services at the branch (or a list of services available at the branch).

## EXAMINER'S SUMMARY, RECOMMENDATIONS, AND COMMENTS

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# Community Reinvestment Act Examination Procedures for Limited Purpose and Wholesale Savings Associations Program

## EXAMINATION SCOPE

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1. For institutions (interstate and intrastate) with more than one assessment area, select assessment areas for examination on-site. To select one or more assessment areas for an on-site examination, review prior performance evaluations, available community contact materials, reported lending data and demographic data on each assessment area and consider factors such as:

   - the lending, investment, and service activity in the different assessment areas, particularly community development activities;
   - the lending, investment, and service opportunities available in the different assessment areas, particularly community development opportunities;
   - the length of time since the assessment area(s) was most recently reviewed on-site;
   - the institution's prior CRA performance in different assessment areas;
   - the number of other institutions in the assessment areas and the importance of the institution under examination in addressing community development needs in the different assessment areas, particularly in areas with a limited number of financial service providers;
   - the existence of apparent anomalies in the reported HMDA data for any particular assessment area;
   - your experience in the same or similar assessment areas; and
   - comments from the public regarding the institution's CRA performance.

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2. For interstate institutions, a rating must be assigned for each state where the institution has a branch and for each multistate MSAs/MDs where the institution has branches in two or more of the states that comprise the multistate MSA/MD. Select one or more assessment areas in each state for examination using these procedures.

## EXAMINATION PROCEDURES

See Appendix A to the CRA Handbook Section for Limited Purpose/Wholesale Savings Associations.

### *Performance Context*

1. Review standardized worksheets and other agency information sources to obtain relevant demographic, economic, and loan data, to the extent available, on each assessment area under review. Consider, among other things, whether housing costs are particularly high in relation to area median income.

2. Consider any information the institution may provide on its local community and economy and its community development lending, qualified investment, and community development service capacity or that otherwise assists in the evaluation of the institution's community development activities.

3. Review community contact forms prepared by the regulatory agencies to obtain information that assists in the evaluation of the institution's community development activities. Contact local community, government, or economic development representatives to update or supplement information about community development activities in the assessment area(s) or the broader statewide or regional

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areas of which the assessment area(s) is a part.

4. Identify barriers, if any, to participation by the institution in local community development activities. For example, evaluate the institution's ability and capacity to help meet the community development needs of its assessment area(s) through a review of the Thrift Financial Reports (TFRs), Uniform Thrift Performance Reports (UTPRs), annual reports, supervisory reports, prior CRA performance evaluations, and financial information for other wholesale/limited purpose institutions serving approximately the same assessment area(s).

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

### Assessment Area

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

   - consists of one or more MSAs/MDs or contiguous political subdivisions (i.e., counties, cities, or towns) where the institution has its main office, branches, and deposit-taking ATMs;
   - consists only of whole census tracts;
   - 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;

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- does not reflect illegal discrimination; and
- does not arbitrarily exclude any low- or moderate-income area(s) taking into account the institution's size 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.

### *Community Development Test*

1. Identify the number and dollar amount of the institution's community development loans (originations and purchases of loans and any other data the institution chooses to provide), 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:

   - qualified investments, community development loans, and community development services provided by affiliates, if they are not claimed by any other institution; and

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- community development lending by consortia or third parties.

2. Test a sample of 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 activites 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:

- the extent, by number and dollar amount, of community development loans, services, and qualified investments;
- the degree of innovation in community development activities (e.g., serving low- or moderate-income borrowers in new ways or serving groups of creditworthy borrowers not previously served by the institution);
- the complexity of those community development activities, such as the use of enhancements or other features specifically designed to expand community development lending;
- the responsiveness to the opportunities for community development lending, qualified investments, and community development services; and
- the degree to which the institution's qualified investments serve needs not routinely provided by other private investors.

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5. Summarize conclusions regarding the institution's community development performance and retain in the work papers.

### *Ratings*

1. Review the analyses of the institution's performance in each assessment area examined, considering only those community development activities that benefit the assessment area(s) and the broader statewide or regional area(s) that include the assessment area(s).

2. Group the analyses of the assessment areas examined by MSA[1] 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 in that MSA.

3. Summarize conclusions about the institution's performance in each MSA and the nonmetropolitan portion of each state in which an assessment area was examined using these procedures. If two or more assessment areas in an MSA or in the 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:

   - the significance of the institution's activities in each compared to the institution's overall activities;
   - the community development opportunities in each;

[1] The reference to MSA may also reference MD.

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- the significance of the institution's activities for each, particularly in light of the number of other institutions and the extent of their activities in each; and
- demographic and economic conditions in each.

4. For assessment areas in MSAs and nonmetropolitan areas that were not examined, consider facts and data related to the institution's community development lending, investment, and service activities to ensure that performance in those areas is not inconsistent with the conclusions based on the assessment areas examined.

5. Assign a preliminary rating for an institution with operations in one state only using the Community Development Ratings Matrix. For an institution with operations in more than one state or multistate MSA, assign a preliminary rating for each state using the Community Development Ratings Matrix. To determine the relative significance of each MSA and nonmetropolitan area to the institution's overall rating (institutions operating in only one state) or statewide or multistate MSA rating (institutions operating in more than one state), consider:

   - the significance of the institution's activities in each compared to the institution's overall activities;
   - the community development opportunities in each;
   - the significance of the institution's activities for each, particularly in light of the number of other institutions and the extent of their activities in each; and
   - demographic and economic conditions in each.

6. For institutions with operations in more than one state or multistate MSA, assign a preliminary rating for the institutions as a whole. To determine the relative significance of each state or multistate MSA consider:

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- the significance of the institution's activities in each compared to the institution's overall activities;
- the community development opportunities in each;
- the significance of the institution's activities for each, particularly in light of the number of other institutions and the extent of their activities in each; and
- demographic and economic conditions in each.

7. If the institution is adequately meeting the community development needs of each of its assessment area(s), consider those community development activities, if any, that benefit areas outside of the assessment area(s) or a broader statewide or regional area that includes the assessment area(s). Determine whether those activities enhance the preliminary rating. If so, adjust the rating(s) accordingly.

8. 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.

9. Review the results of the most recent compliance examination and determine whether evidence of discrimination or other illegal credit practices that violate an applicable law, rule, or regulation should lower the institution's preliminary composite rating or the preliminary CRA rating for a state or multistate MSA.[2] 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:

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- the nature, extent, and strength of the evidence of the practices;
- the policies and procedures that the institution (or affiliate, as applicable) has in place to prevent the practices;
- any corrective action the institution (or affiliate, as applicable) has taken, or has committed to take, particularly voluntary corrective action resulting from a self-assessment ; and
- any other relevant information.

10. Assign a final composite rating to the institution, considering the preliminary rating and any evidence of discriminatory or other illegal credit practices, and discuss conclusions with management.

11. Write comments for the public evaluation and examination report.

12. 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 in 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.

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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(s) in the main office and in each state contain:

- all written comments from the public relating to the institution's CRA performance and any 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);
- the institution's most recent CRA Performance Evaluation;
- 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;
- 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;
- 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;
- the institution's CRA Disclosure Statement(s) for the prior two calendar years;
- a quarterly updated progress report describing the institution's efforts to improve its performance if it received a less than satisfactory rating during its most recent CRA examination;
- HMDA Disclosure Statements for the prior two calendar years and those of each non-depository affiliate the institution has elected to include in assessment of its CRA record, if applicable; and

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- if applicable, the number and dollar amount of consumer loans made to the four income categories of borrowers and geographies (low, moderate, middle, and upper -income), located inside and outside of the assessment area(s).

3. In any branch review undertaken, determine whether the branch provides the most recent public evaluation, 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).

## EXAMINER'S SUMMARY, RECOMMENDATIONS, AND COMMENTS

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# Community Reinvestment Act Examination Procedures for Savings Associations With Strategic Plans Program

## EXAMINATION SCOPE

WKP. REF.

1. For institutions (interstate and intrastate) with more than one assessment area, select assessment areas for review. To select one or more assessment areas for an on-site examination, review prior performance evaluations, available community contact materials, reported lending data and demographic data on each assessment area and consider factors such as:

   - the level of the institution's lending, investment and service activity in the different assessment areas, particularly 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];
   - the number of other institutions in the different assessment areas and the importance of the institution under examination in meeting credit needs in the different assessment areas, particularly in areas with a limited number of financial service providers;
   - the existence of apparent anomalies in the reported lending data for any particular assessment area(s);
   - the time since the assessment area(s) was most recently examined on-site;
   - performance that falls short of plan goals based on a review of available data;
   - the institution's prior CRA performance in the different assessment areas; and
   - comments from the public regarding the institution's CRA performance.

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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 underserved nonmetropolitan middle-income geographies is available on the FFIEC web site at www.ffiec.gov.

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2. For interstate institutions, a rating must be assigned for each state where the institution has a branch and in every multistate MSA where the institution has branches in two or more of the states that comprise that multistate MSA. Select one or more assessment areas in each state for examination using these procedures.

## EXAMINATION PROCEDURES

### *Performance Context*

1. Review the institution's public file for any comments received by the institution or the agency since the last CRA performance evaluation that assists in evaluating the institution's record of meeting plan goals.

2. Consider any information that the institution provides on its record of meeting plan goals.

3. Contact local community, governmental, or economic development representatives to update or supplement information about the institution's record of meeting plan goals.

4. As necessary, consider any information the institution or others may provide on local community and economic conditions that may affect the institution's ability to meet plan goals or otherwise assist in the evaluation of the institution.

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### *Performance Criteria*

1. Review the following:

   - the approved plan and approved amendments;
   - the agency's approval process files; and
   - written comments from the public that the institution or the agency received since the plan became effective.

2. Determine whether the institution achieved its performance goals for each assessment area examined.

   - Review the plan's measurable annual goals for each performance category and assessment area(s) to be reviewed.
   - Obtain information and data about the institution's actual performance for the period that has elapsed since the previous examination.
   - Compare the plan goals for each assessment area reviewed to the institution's actual performance since its last examination in each assessment area reviewed to determine if all of the plan's goals have been met.

3. If any goals were not met, form a conclusion as to whether the plan goals were "substantially met." In doing so, consider the number of unmet goals, the degree to which the goals were not met, the importance of those goals to the plan as a whole, and the reasons why the goals were not met (e.g., economic factors beyond the institution's control).

4. Discuss with management the preliminary findings.

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5. Summarize conclusions about the institution's performance.

### Ratings

These instructions assume that the strategic plan covers all of the institution's assessment areas. If not, the analysis of performance for the assessment area(s) covered by the strategic plan must be combined with the analyses for assessment areas that were subject to other assessment method(s) in order to assign a rating.

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 MSA.

2. If the institution has substantially met its plan goals for a satisfactory rating or, if applicable, an outstanding rating, in all assessment areas reviewed, summarize conclusions about the institution's performance in each MSA and the nonmetropolitan area of each state in which an assessment area was examined using these procedures. Assign the appropriate preliminary rating for the institution and, as applicable, each state or multistate MSA and proceed to step 6, below.

3. If the institution did not substantially meet its plan goals in each assessment area, check to determine if the institution elected in its plan to be evaluated under an alternate assessment method.

   - If the institution did not elect in the plan to be evaluated under an alternate assessment method, assign a "Needs to Improve" or "Substantial Noncompliance" rating to those assessment areas in which plan goals were not substantially met, depending on the number of goals missed, the extent to

[3] The reference to MSA may also reference MD.

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which they were missed, and their importance to the plan overall.

- If the institution elected in its plan to be evaluated under an alternate assessment method, perform the appropriate procedures to evaluate and rate the institution's performance in those assessment areas in which the institution did not meet plan goals.

4. For institutions operating in multiple assessment areas, determine the relative importance of the assessment areas reviewed in forming conclusions for each MSA and the nonmetropolitan area within each state and for any multistate MSA where the institution has branches in two or more states. In making that determination, consider:

- the significance of the institution's activities in each compared to the institution's overall activities;
- the lending, service, and investment opportunities in each;
- the significance of the institution's loans, qualified investments, and lending-related services, as applicable, for each, particularly in light of the number of other institutions and the extent of their activities in each; and
- demographic and economic conditions in each.

5. For an institution operating in multiple MSAs or nonmetropolitan areas in one or more states or multistate MSAs, assign a preliminary rating for each state and multi-state MSA. To determine the relative significance of each MSA and nonmetropolitan area to the rating in a state, consider:

- the significance of the institution's activities in each compared to the institution's overall activities;
- the lending, service, and investment opportunities in each;

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- the significance of the institution's loans, qualified investments, and lending-related services, as applicable, for each, particularly in light of the number of other institutions and the extent of their activities in each; and
- demographic and economic conditions in each.

6. For institutions with operations in more than one state, assign a preliminary overall rating. In determining the relative significance of the institution's performance in each state or multistate MSA to its overall rating consider:

- the significance of the institution's activities in each compared to the institution's overall activities;
- the lending, service, and investment opportunities in each;
- the significance of the institution's loans, qualified investments, and lending-related services, as applicable, for each, particularly in light of the number of other institutions and the extent of their activities in each; and
- demographic and economic conditions in each.

7. Review the results of the most recent compliance examination and determine whether evidence of discrimination should lower the institution's overall CRA rating or, if applicable, its CRA rating in any state or multistate 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 were considered as part of the institution's lending performance, was found, consider:

- the nature, extent, and strength of the evidence of the practices;
- the policies and procedures that the institution (or affiliate, if applicable) has taken, or has committed to take, including voluntary corrective action resulting from self-assessment;

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- any corrective action the institution took, or committed to take, particularly voluntary corrective action resulting from a self-assessment conducted prior to the examination; and
- any other relevant information, such as the institution's past fair lending performance.

8. Discuss conclusions with management and assign a final rating to the institution and state or multistate MSA ratings, as applicable, considering the preliminary rating and any evidence of discrimination and other illegal credit practices.

9. Write comments for the public evaluation and the examination report.

### *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 copy of the approved strategic plan;
- all written comments from the public relating to the institution's CRA performance and responses to them for the current and preceding two calendar

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years (except those that reflect adversely on the good name or reputation of any persons other than the institution);

- the institution's most recent CRA Public Performance Evaluation;
- 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;
- 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;
- 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;
- the institution's CRA Disclosure Statement(s) for the prior two calendar years;
- 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;
- 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;
- the number and dollar amount of consumer loans, for large banks, if applicable; and
- the loan-to-deposit ratio, for small institutions.

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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 Savings Associations | | | | |
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| **Criteria** | **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). |
| Borrowers' 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 |

| CRA Ratings Matrix — Large Retail Savings Associations Lending Test | | | | | |
|---|---|---|---|---|---|
| Criteria | Outstanding | High Satisfactory | Low Satisfactory | Needs to Improve | Substantial Noncompliance |
| Lending Activity | Lending levels reflect excellent responsiveness to assessment area credit needs. | Lending levels reflect good responsiveness to assessment area credit needs. | Lending levels reflect adequate responsiveness to assessment area credit needs. | Lending levels reflect poor responsiveness to assessment area credit needs. | Lending levels reflect very poor responsiveness to assessment area credit needs. |
| Assessment area(s) concentration | A substantial majority of loans are made in the institution's assessment area(s). | A high percentage of loans are made in the institution's assessments area(s). | An adequate percentage of loans are made in the institution's assessment area(s). | A small percentage of loans are made in the institution's assessments area(s). | A very small percentage of loans are made in the institution's assessment area(s). |
| Geographic distribution of loans | The geographic distribution of loans reflects excellent penetration throughout the assessment area(s). | The geographic distribution of loans reflects good penetration throughout the assessment area(s). | The geographic distribution of loans reflects adequate penetration throughout the assessment area(s). | The geographic distribution of loans reflects poor penetration throughout the assessment area(s), particularly to low- or moderate-income geographies in the assessment area(s). | The geographic distribution of loans reflects very poor penetration throughout the assessment area(s), particularly to low- or moderate-income geographies in the assessment area(s). |
| Borrowers' profile | The distribution of borrowers reflects, given the product lines offered by the institution, excellent penetration among retail customers of different income levels and business customers of different size. | The distribution of borrowers reflects, given the product lines offered by the institution, good penetration among retail customers of different income levels and business customers of different sizes. | The distribution of borrowers reflects, given the product lines offered by the institution, adequate penetration among retail customers of different income levels and business customers of different sizes. | The distribution of borrowers reflects, given the product lines offered by the institution, poor penetration among retail customers of different income levels and business customers of different size. | The distribution of borrowers reflects, given the product lines offered by the institution, very poor penetration among retail customers of different income levels and business customers of different size. |
| Responsiveness to credit needs of highly economically disadvantaged geographies and low-income persons, small business | The institution exhibits an excellent record of serving the credit needs of the most economically disadvantaged areas of its assessment area(s), low-income individuals, and/or very small businesses, consistent with safe and sound banking practices. | The institution exhibits a good record of serving the credit needs of the most economically disadvantaged areas of its assessment area(s), low-income individuals, and/or very small businesses, consistent with safe and sound banking practices. | The institution exhibits an adequate record of serving the credit needs of the most economically disadvantaged areas of its assessment area(s), low-income individuals, and/or very small businesses, consistent with safe and sound banking practices. | The institution exhibits a poor record of serving the credit needs of the most economically disadvantaged areas of its assessment area(s), low-income individuals, and/or very small businesses, consistent with safe and sound banking practices. | The institution exhibits a very poor record of serving the credit needs of the most economically disadvantaged areas of its assessment area(s), low-income individuals, and/or very small businesses, consistent with safe and sound banking practices. |
| Community development lending activities | The institution is a leader in making community development loans. | The institution has made a relatively high level of community development loans. | The institution has made an adequate level of community development loans. | The institution has made few, if any, community development loans. | The institution has made a low level of community development loans. |
| Product Innovation | The institution makes extensive use of innovative and/or flexible lending practices in order to serve assessment area credit needs. | The institution uses innovative and/or flexible lending practices in order to serve assessment area credit needs. | The institution makes limited use of innovative and/or flexible lending practices in order to serve assessment area credit needs. | The institution makes little use of innovative and/or flexible lending practices in order to serve assessment area credit needs. | The institution makes no use of innovative and/or flexible lending practices in order to serve assessment area credit needs. |

| CRA Ratings Matrix — Large Retail Savings Associations Investment Test | | | | | |
|---|---|---|---|---|---|
| **Characteristic** | **Outstanding** | **High Satisfactory** | **Low Satisfactory** | **Needs to Improve** | **Substantial Noncompliance** |
| Investment and Grant Activity | The institution has an excellent level of qualified community development investment and grants, often in a leadership position, particularly those that are not routinely provided by private investors. | The institution has a significant level of qualified community development investments and grants, occasionally in a leadership position, particularly those that are not routinely provided by private investors. | The institution has an adequate level of qualified community development investments and grants, although rarely in a leadership position, particularly those that are not routinely provided by private investors. | The institution has a poor level of qualified community development investments and grants, but not in a leadership position, particularly those that are not routinely provided by private investors. | The institution has few, if any, qualified community development investments or grants, particularly those that are not routinely provided by private investors. |
| Responsiveness to Credit and Community Development Needs | The institution exhibits excellent responsiveness to credit and community economic development needs. | The institution exhibits good responsiveness to credit and community economic development needs. | The institution exhibits adequate responsiveness to credit and community economic development needs. | The institution exhibits poor responsiveness to credit and community economic development needs. | The institution exhibits very poor responsiveness to credit and community economic development needs. |
| Community Development Initiatives | The institution makes extensive use of innovative and/or complex investments to support community development initiatives. | The institution makes significant use of innovative and/or complex investments to support community development initiatives. | The institution rarely uses innovative and/or complex investments to support community development initiatives. | The institution rarely uses innovative and/or complex investments to support community development initiatives. | The institution does not use innovative and/or complex investments to support community development initiatives. |

| CRA Ratings Matrix — Large Retail Savings Associations Service Test | | | | | |
|---|---|---|---|---|---|
| **Characteristic** | **Outstanding** | **High Satisfactory** | **Low Satisfactory** | **Needs to Improve** | **Substantial Noncompliance** |
| Accessibility of Delivery Systems | Delivery systems are readily accessible to all portions of the institution's assessment area(s). | Delivery systems are accessible to essentially all portions of the institution's assessment area(s). | Delivery systems are reasonably accessible to essentially all portions of the institution’s assessment area(s). | Delivery systems are accessible to limited portions of the institution's assessment area(s). | Delivery systems are inaccessible to significant portions of the assessment area(s), particularly low- and moderate-income geographies and/or low- and moderate-income individuals. |
| Changes in Branch Locations | To the extent changes have been made, the institution's record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- and moderate-income geographies and/or to low- and moderate-income individuals. | To the extent changes have been made, the institution's opening and closing of branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and/or to low- and moderate-income individuals. | To the extent changes have been made, the institution's opening and closing of branches has generally not adversely affected the accessibility of its delivery systems, particularly in low-and moderate-income geographies and/or to low- and moderate-income individuals. | To the extent changes have been made, the institution's record of opening and closing branches has adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and/or to low- and moderate-income individuals. | To the extent changes have been made, the institution's opening and closing of branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and/or to low- and moderate-income individuals. |
| Reasonableness of business hours and services in meeting assessment area(s) needs | Services (including, where appropriate, business hours) are tailored to the convenience and needs of the assessment area(s), particularly low- and moderate-income geographies and/or individuals. | Services (including, where appropriate, business hours) do not vary in a way that inconveniences certain portions of the assessment area(s), particularly low- and moderate-income geographies and/or individuals. | Services (including, where appropriate, business hours) do not vary in a way that inconveniences portions of the assessment area(s), particularly low- and moderate-income geographies and/or individuals. | Services (including, where appropriate, business hours) vary in a way that inconveniences certain portions of the assessment area(s), particularly low- and moderate-income geographies and/or individuals. | Services (including, where appropriate, business hours) vary in a way that significantly inconveniences many portions of the assessment area(s), particularly low- and moderate-income geographies and/or individuals. |
| Community Development services | The institution is a leader in providing community development services. | The institution provides a relatively high level of community development services. | The institution provides an adequate level of community development services. | The institution provides a limited level of community development services. | The institution provides few, if any, community development services. |

| CRA Ratings Matrix — Limited Purpose/Wholesale Savings Associations Community Development Test | | | | |
|---|---|---|---|---|
| Characteristic | Outstanding | Satisfactory | Needs To Improve | Substantial Noncompliance |
| Investment, Loan, and Service Activity | The institution has a high level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors. | The institution has an adequate level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors. | The institution has a poor level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors. | The institution has few, if any, community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors. |
| Investment, Loan, and Service Initiatives | The institution extensively uses innovative or complex qualified investments, community development loans, or community development services. | The institution occasionally uses innovative or complex qualified investments, community development loans, or community development services. | The institution rarely uses innovative or complex qualified investments, community development loans, or community development services. | The institution does not use innovative or complex qualified investments, community development loans, or community development services. |
| Responsiveness to Community Development Needs | The institution exhibits excellent responsiveness to credit and community economic development needs in its assessment area(s). | The institution exhibits adequate responsiveness to credit and community economic development needs in its assessment area(s). | The institution exhibits poor responsiveness to credit and community economic needs in its assessment area(s). | The institution exhibits very poor responsiveness to credit and community economic development needs in its assessment area(s). |

| CRA Ratings Matrix — Intermediate Small Savings Associations Lending Test | | | | |
|---|---|---|---|---|
| **Criteria** | **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). |
| Borrowers' 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. |

| CRA Ratings Matrix — Intermediate Small Savings Associations Community Development Test | | | |
|---|---|---|---|
| **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, 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). | 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 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). | 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, considering the institution's capacity and the need and availability of such opportunities for community development in the institution's assessment area(s). | The institution's community development performance demonstrates very poor responsiveness to the community development needs of its assessment area(s) through community development loans, 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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# Disclosure and Reporting of CRA-Related Agreements

## I. OVERVIEW

Section 711 of the Gramm-Leach-Bliley Act (GLBA) added a new section 48 to the Federal Deposit Insurance Act (FDI Act) entitled "CRA Sunshine Requirements." This section requires nongovernmental entities or persons (NGEPs), insured depository institutions (IDIs), and affiliates of insured depository institutions that are parties to certain agreements that are in fulfillment of the Community Reinvestment Act (CRA) to make the agreements available to the public and the appropriate agency and to file annual reports concerning the agreements with the appropriate agency. The interagency regulations implementing GLBA's CRA Sunshine Requirements were published January 10, 2001. The GLBA CRA Sunshine Requirements and the implementing CRA Sunshine Regulations do not affect the Community Reinvestment Act of 1977, its implementing regulations, or the agencies' interpretations or administration of that act or regulation.

LINKS

Appendix A

The CRA Sunshine Regulations identify the types of written agreements that are covered by the statute (referred to as covered agreements), define many of the terms used in the statute, describe how the parties to a covered agreement must make the agreement available to the public and the appropriate agencies, and explain the type of information that must be included in the annual report filed by a party to a covered agreement. However, neither GLBA nor the CRA Sunshine Regulations give the agencies any authority to enforce the provisions of any covered agreement.

The CRA Sunshine Regulations, entitled "Disclosure and Reporting of CRA-Related Agreements," became effective April 1, 2001. As described in the Regulations and outlined in Attachment A, the disclosure requirements apply to covered agreements entered into after November 12, 1999, and the annual reporting requirements apply to covered agreements entered into on or after May 12, 2000.

## II. DEFINITIONS

In addition to the definitions described below, § 533.11 of the CRA Sunshine Regulations provide other definitions, including ones for "affiliate" and "term of agreement".

### *Covered Agreement:*

A covered agreement is any contract, arrangement, or understanding that meets all of the following criteria –

1. The agreement is in writing.

2. The parties to the agreement include:

   i. One or more insured depository institutions or affiliates of an insured depository institution; and

   ii. One or more NGEPs.

3. The agreement provides for the insured depository institution or any affiliate to –

   i. Provide to one or more individuals or entities (whether or not parties to the agreement) cash payments, grants, or other consideration (except loans) that have an aggregate value of more than $10,000 in any calendar year; or

   ii. Make to one or more individuals or entities (whether or not parties to the agreement) loans that have an aggregate principal amount of more than $50,000 in any calendar year.

4. The agreement is made pursuant to, or in connection with, the fulfillment of the CRA.

5. The agreement is with a NGEP that has had a CRA communication prior to entering into the agreement.

A covered agreement does not include:

1. Any individual loan that is secured by real estate; or

2. Any specific contract or commitment for a loan or extension of credit to an individual, business, farm, or other entity, or group of such individuals or entities if –

   i. The funds are loaned at rates that are not substantially below market rates; and

   ii. The loan application or other loan documentation does not indicate that the borrower intends or is authorized to use the borrowed funds to make a loan or extension of credit to one or more third parties.

### *CRA Affiliate:*

A "CRA affiliate" of an insured depository institution is any company that is an affiliate of an insured depository institution to the extent, and only to the extent, that the activities of the affiliate were considered by the appropriate Federal banking agency when evaluating the CRA performance of the institution at its most recent CRA examination prior to the agreement. An insured depository institution or affiliate also may designate any company as a CRA affiliate at any time prior to the time a covered agreement is entered into by informing the NGEP that is a party to the agreement of such designation.

### *CRA Communication:*

A CRA communication is any of the following that meet the timing and knowledge requirements of § 533.3(b).

1. Any written or oral comment or testimony provided to a Federal banking agency concerning the adequacy of the performance under the CRA of the insured depository institution, any affiliated insured depository institution, or any CRA affiliate.

2. Any written comment submitted to the insured depository institution that discusses the adequacy of the performance under the CRA of the institution and must be included in the institution's CRA public file.

3. Any discussion or other contact with the insured depository institution or any affiliate about –

   i. Providing (or refraining from providing) written or oral comments or testimony to any Federal banking agency concerning the adequacy of the performance under the CRA of the insured depository institution, any affiliated insured depository institution, or any CRA affiliate;

   ii. Providing (or refraining from providing) written comments to the insured depository institution that concern the adequacy of the institution's performance under the CRA and must be included in the institution's CRA public file; or

   iii. The adequacy of the performance under the CRA of the insured depository institution, any affiliated insured depository institution, or any CRA affiliate.

Examples of actions that are CRA communications may be found in § 533.3(c)(1), and examples of actions that are not CRA communication may be found in § 533.3(c)(2).

### *Fulfillment of the CRA:*

Factors that are in fulfillment of the CRA:

1. Comments to a Federal banking agency or included in CRA public file - Providing or refraining from providing written or oral comments or testimony to any Federal banking agency concerning the performance under the CRA of an insured depository institution or CRA affiliate that is a party to the agreement or an affiliate of a party to the agreement or written comments that are required to be included in the CRA public file of any such insured depository institution; or

2. Activities given favorable CRA consideration - Performing any of the following activities if the activity is of the type that is likely to receive favorable consideration by a Federal banking

agency in evaluating the performance under the CRA of the insured depository institution that is a party to the agreement or an affiliate of a party to the agreement –

i. Home-purchase, home-improvement, small business, small farm, community development, and consumer lending, as described in 12 CFR 563e.22 of the CRA regulations, including loan purchases, loan commitments, and letters of credit;

ii. Making investments, deposits, or grants, or acquiring membership shares, that have as their primary purpose community development, as described in 12 CFR 563e.23 of the CRA regulations;

iii. Delivering retail banking services, as described in 12 CFR 563e.24(d) of the CRA regulations;

iv. Providing community development services, as described in 12 CFR 563e.24(e) of the CRA regulations;

v. In the case of a wholesale or limited-purpose insured depository institution, community development lending, including originating and purchasing loans and making loan commitments and letters of credit, making qualified investments, or providing community development services, as described in 12 CFR 563e.25(c) of the CRA regulations;

vi. In the case of a small insured depository institution, any lending or other activity described in 12 CFR 563e.26(a) of the CRA regulations; or

vii. In the case of an insured depository institution that is evaluated on the basis of a strategic plan, any element of the strategic plan, as described in 12 CFR 563e.27(f) of the CRA regulations.

### *Insured depository institution:*

Insured depository institution means any bank or savings association whose deposits are insured by the FDIC and includes any uninsured branch or agency of a foreign bank or a commercial lending company owned or controlled by a foreign bank for purpose of Section 8 of the FDI Act.

### *NGEP:*

A nongovernmental entity or person (NGEP) is any partnership, association, trust, joint venture, joint stock company, corporation, limited liability corporation, company, firm, society, other organization, or individual.

A NGEP does not include:

1. the United States government, a state government, a unit of local government (including a county, city, town, township, parish, village, or other general-purpose subdivision of a state) or an Indian tribe or tribal organization established under federal, state or Indian tribal law (including the Department of Hawaiian Home Lands), or a department, agency, or instrumentality of any such entity;

2. a federally chartered public corporation that receives federal funds appropriated specifically for that corporation;

3. an insured depository institution or affiliate of an insured depository institution; or

4. an officer, director, employee, or representative (acting in his or her capacity as an officer, director, employee, or representative) of the above mentioned entities.

### *Relevant supervisory agency:*

The relevant supervisory agency for a covered agreement means the appropriate Federal banking agency for:

1. each insured depository institution (or subsidiary thereof) that is a party to the covered agreement;

2. each insured depository institution (or subsidiary thereof) or CRA affiliate that makes payments or loans or provides services that are subject to the covered agreement; and

3. any company (other than an insured depository institution or subsidiary thereof) that is a party to the covered agreement.

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# Disclosure and Reporting of CRA-Related Agreements

## I. OVERVIEW

Section 711 of the Gramm-Leach-Bliley Act (GLBA) added a new section 48 to the Federal Deposit Insurance Act (FDI Act) entitled "CRA Sunshine Requirements." This section requires nongovernmental entities or persons (NGEPs), insured depository institutions (IDIs), and affiliates of insured depository institutions that are parties to certain agreements that are in fulfillment of the Community Reinvestment Act (CRA) to make the agreements available to the public and the appropriate agency and to file annual reports concerning the agreements with the appropriate agency. The interagency regulations implementing GLBA's CRA Sunshine Requirements were published January 10, 2001. The GLBA CRA Sunshine Requirements and the implementing CRA Sunshine Regulations do not affect the Community Reinvestment Act of 1977, its implementing regulations, or the agencies' interpretations or administration of that act or regulation.

LINKS

Appendix A

The CRA Sunshine Regulations identify the types of written agreements that are covered by the statute (referred to as covered agreements), define many of the terms used in the statute, describe how the parties to a covered agreement must make the agreement available to the public and the appropriate agencies, and explain the type of information that must be included in the annual report filed by a party to a covered agreement. However, neither GLBA nor the CRA Sunshine Regulations give the agencies any authority to enforce the provisions of any covered agreement.

The CRA Sunshine Regulations, entitled "Disclosure and Reporting of CRA-Related Agreements," became effective April 1, 2001. As described in the Regulations and outlined in Attachment A, the disclosure requirements apply to covered agreements entered into after November 12, 1999, and the annual reporting requirements apply to covered agreements entered into on or after May 12, 2000.

## II. DEFINITIONS

In addition to the definitions described below, § 533.11 of the CRA Sunshine Regulations provide other definitions, including ones for "affiliate" and "term of agreement".

### *Covered Agreement:*

A covered agreement is any contract, arrangement, or understanding that meets all of the following criteria –

1. The agreement is in writing.
2. The parties to the agreement include:
   i. One or more insured depository institutions or affiliates of an insured depository institution; and
   ii. One or more NGEPs.
3. The agreement provides for the insured depository institution or any affiliate to –
   i. Provide to one or more individuals or entities (whether or not parties to the agreement) cash payments, grants, or other consideration (except loans) that have an aggregate value of more than $10,000 in any calendar year; or
   ii. Make to one or more individuals or entities (whether or not parties to the agreement) loans that have an aggregate principal amount of more than $50,000 in any calendar year.
4. The agreement is made pursuant to, or in connection with, the fulfillment of the CRA.
5. The agreement is with a NGEP that has had a CRA communication prior to entering into the agreement.

A covered agreement does not include:

1. Any individual loan that is secured by real estate; or
2. Any specific contract or commitment for a loan or extension of credit to an individual, business, farm, or other entity, or group of such individuals or entities if –
   i. The funds are loaned at rates that are not substantially below market rates; and
   ii. The loan application or other loan documentation does not indicate that the borrower intends or is authorized to use the borrowed funds to make a loan or extension of credit to one or more third parties.

### *CRA Affiliate:*

A “CRA affiliate” of an insured depository institution is any company that is an affiliate of an insured depository institution to the extent, and only to the extent, that the activities of the affiliate were considered by the appropriate Federal banking agency when evaluating the CRA performance of the institution at its most recent CRA examination prior to the agreement. An insured depository institution or affiliate also may designate any company as a CRA affiliate at any time prior to the time a covered agreement is entered into by informing the NGEP that is a party to the agreement of such designation.

### *CRA Communication:*

A CRA communication is any of the following that meet the timing and knowledge requirements of § 533.3(b).

1. Any written or oral comment or testimony provided to a Federal banking agency concerning the adequacy of the performance under the CRA of the insured depository institution, any affiliated insured depository institution, or any CRA affiliate.

2. Any written comment submitted to the insured depository institution that discusses the adequacy of the performance under the CRA of the institution and must be included in the institution's CRA public file.

3. Any discussion or other contact with the insured depository institution or any affiliate about –

   i. Providing (or refraining from providing) written or oral comments or testimony to any Federal banking agency concerning the adequacy of the performance under the CRA of the insured depository institution, any affiliated insured depository institution, or any CRA affiliate;

   ii. Providing (or refraining from providing) written comments to the insured depository institution that concern the adequacy of the institution's performance under the CRA and must be included in the institution's CRA public file; or

   iii. The adequacy of the performance under the CRA of the insured depository institution, any affiliated insured depository institution, or any CRA affiliate.

Examples of actions that are CRA communications may be found in § 533.3(c)(1), and examples of actions that are not CRA communication may be found in § 533.3(c)(2).

### *Fulfillment of the CRA:*

Factors that are in fulfillment of the CRA:

1. Comments to a Federal banking agency or included in CRA public file - Providing or refraining from providing written or oral comments or testimony to any Federal banking agency concerning the performance under the CRA of an insured depository institution or CRA affiliate that is a party to the agreement or an affiliate of a party to the agreement or written comments that are required to be included in the CRA public file of any such insured depository institution; or

2. Activities given favorable CRA consideration - Performing any of the following activities if the activity is of the type that is likely to receive favorable consideration by a Federal banking

agency in evaluating the performance under the CRA of the insured depository institution that is a party to the agreement or an affiliate of a party to the agreement –

i. Home-purchase, home-improvement, small business, small farm, community development, and consumer lending, as described in 12 CFR 563e.22 of the CRA regulations, including loan purchases, loan commitments, and letters of credit;

ii. Making investments, deposits, or grants, or acquiring membership shares, that have as their primary purpose community development, as described in 12 CFR 563e.23 of the CRA regulations;

iii. Delivering retail banking services, as described in 12 CFR 563e.24(d) of the CRA regulations;

iv. Providing community development services, as described in 12 CFR 563e.24(e) of the CRA regulations;

v. In the case of a wholesale or limited-purpose insured depository institution, community development lending, including originating and purchasing loans and making loan commitments and letters of credit, making qualified investments, or providing community development services, as described in 12 CFR 563e.25(c) of the CRA regulations;

vi. In the case of a small insured depository institution, any lending or other activity described in 12 CFR 563e.26(a) of the CRA regulations; or

vii. In the case of an insured depository institution that is evaluated on the basis of a strategic plan, any element of the strategic plan, as described in 12 CFR 563e.27(f) of the CRA regulations.

### *Insured depository institution:*

Insured depository institution means any bank or savings association whose deposits are insured by the FDIC and includes any uninsured branch or agency of a foreign bank or a commercial lending company owned or controlled by a foreign bank for purpose of Section 8 of the FDI Act.

### *NGEP:*

A nongovernmental entity or person (NGEP) is any partnership, association, trust, joint venture, joint stock company, corporation, limited liability corporation, company, firm, society, other organization, or individual.

A NGEP does not include:

1. the United States government, a state government, a unit of local government (including a county, city, town, township, parish, village, or other general-purpose subdivision of a state) or an Indian tribe or tribal organization established under federal, state or Indian tribal law (including the Department of Hawaiian Home Lands), or a department, agency, or instrumentality of any such entity;

2. a federally chartered public corporation that receives federal funds appropriated specifically for that corporation;

3. an insured depository institution or affiliate of an insured depository institution; or

4. an officer, director, employee, or representative (acting in his or her capacity as an officer, director, employee, or representative) of the above mentioned entities.

#### *Relevant supervisory agency:*

The relevant supervisory agency for a covered agreement means the appropriate Federal banking agency for:

1. each insured depository institution (or subsidiary thereof) that is a party to the covered agreement;

2. each insured depository institution (or subsidiary thereof) or CRA affiliate that makes payments or loans or provides services that are subject to the covered agreement; and

3. any company (other than an insured depository institution or subsidiary thereof) that is a party to the covered agreement.

## SUMMARY OF THE DISCLOSURE AND REPORTING REQUIREMENTS OF THE REGULATION

## DISCLOSURE OF COVERED AGREEMENTS TO THE PUBLIC

| | **NGEP** | **Insured Depository Institution or Affiliate** |
|---|---|---|
| Which agreements must be disclosed to the public? | Covered agreements entered into after 11/12/99. | Covered agreements entered into after 11/12/99. |
| When does my duty to disclose a covered agreement to the public begin? | 4/1/01. | 4/1/01. |
| What event triggers my obligation to disclose a covered agreement to a member of the public? | An individual or entity must request you to make a covered agreement available. | An individual or entity must request you to make a covered agreement available. |
| How do I disclose a covered agreement to the public? | You must promptly make a copy of the covered agreement available. You may withhold information that is confidential and proprietary under FOIA standards. However, you must disclose certain enumerated items of information identified at § 533.6(b)(3). | You must promptly make a copy of the covered agreement available. You may withhold information that is confidential and proprietary under FOIA standards. However, you must disclose certain enumerated items of information identified at § 533.6(b)(3).<br><br>An IDI or affiliate may make an agreement available by placing a copy of the covered agreement in the IDI's CRA public file. The IDI must make the agreement available in accordance with the CRA rule on public files. |
| When does my duty to disclose a covered agreement to the public end? | Twelve months after the end of the term of the agreement. However, if your agreement terminated before 4/1/01, your obligation to disclose terminates 4/1/02. | Twelve months after the end of the term of the agreement. However if your agreement terminated before 4/1/01, your obligation to disclose terminates 4/1/02. |

## DISCLOSURE OF COVERED AGREEMENTS TO THE RELEVANT SUPERVISORY AGENCY (RSA)

| | **NGEP** | **Insured Depository Institution or Affiliate** |
|---|---|---|
| What agreements must be disclosed to the RSA? | Covered agreements entered into after 11/12/99. | Covered agreements entered into after 11/12/99. |
| When does my duty to disclose a covered agreement to the RSA begin? | 4/1/01. | 4/1/01. |
| When must I disclose a covered agreement to the RSA? | You must disclose your covered agreement to the RSA within 30 days after the RSA requests a copy of the agreement. | You must disclose your covered agreement to the RSA within 60 days of the end of the calendar quarter after the agreement is entered into. However, if your agreement terminated before 4/1/01, you must disclose your agreement to the RSA by 6/30/01. |
| How do I disclose a covered agreement to the RSA? | You must provide the RSA with a complete copy of the agreement. If you propose the withholding of any information that can be withheld from disclosure under FOIA, you must also provide a public version of the agreement that excludes such information and an explanation justifying the exclusion. The public version must include certain information. See § 533.6(b)(3). | You must provide the RSA with a complete copy of the agreement. If you propose the withholding of any information that can be withheld from disclosure under FOIA, you must also provide a public version of the agreement that excludes such information and an explanation justifying the exclusion. The public version must include certain information. See § 533.6(b)(3).<br><br>Alternatively, you may provide a list of all covered agreements that you entered into during the calendar quarter, and include the information described at § 533.6(d)(1). If the RSA requests a copy of an agreement referenced in the list, you must provide a copy of the agreement and a public version (if applicable) within seven calendar days. |
| When does my duty to disclose a covered agreement to the RSA end? | Twelve months after the end of the term of the agreement. However, if your agreement terminated before 4/1/01, you must make the agreement available to the RSA until 4/l/02. | If you file a list, your obligation to provide a copy of an agreement referenced in the list terminates thirty-six months after the end of the term of the agreement. |

## FILING OF ANNUAL REPORTS WITH THE RSA

| | **NGEP** | **Insured Depository Institution or Affiliate** |
|---|---|---|
| What agreements are subject to annual reporting requirements to the RSA? | Covered agreements entered into on or after 5/12/00. | *Covered agreements entered into on or after 5/12/00.* |
| What periods require an annual report? | You must report for each fiscal year in which you receive or use funds or other resources under the covered agreement. Alternatively, you may file your report on a calendar year basis. | You must report for each fiscal year in which you have any reportable data concerning the covered agreement described in § 533.7(e)(1)(iii), (e)(1)(iv) or (e)(1)(vi). Alternatively, you may file your report on a calendar year basis. |
| When must I file the annual report? | <u>For fiscal years that end after 1/1/01</u>, you must file the report with each RSA within six months after the end of the fiscal year covered by the report.<br><br>Alternatively, you may, within this six-month period, provide the report to an IDI or affiliate that is a party to the agreement. You must include written instructions requiring the IDI or affiliate to promptly forward the report to the RSA(s).<br><br><u>For fiscal years that end between 5/12/00 and 12/31/00</u>, you must file the report with each RSA (or with an IDI or affiliate that is party to the agreement) no later than 6/30/01. | <u>For fiscal years that end after 1/1/01</u>, you must file the report with each RSA within six months after the end of the fiscal year covered by the report.<br><br>If a NGEP has provided its report to you, you must also file that report with the RSA(s) on behalf of the NGEP within 30 days of receipt.<br><br><u>For fiscal years that end between 5/12/00 and 12/31/00</u>, you must file the report with each RSA no later than 6/30/01. |
| May I file a consolidated annual report? | If you are a party to two or more covered agreements, you may file a single consolidated annual report concerning all the covered agreements. | If you are a party to two or more covered agreements, you may file a single consolidated annual report concerning all the covered agreements.<br><br>If you and your affiliates are parties to the same covered agreement, you may file a single consolidated annual report relating to the agreement. |
| What must I include in the annual report? | You must include the information described at § 533.7(d). | You must include the information described at § 533.7(e). |