



# Community Developments *Investments*

## 2005 CRA Revisions: How Banks and Examiners Are Implementing the New Rules

Summer 2006

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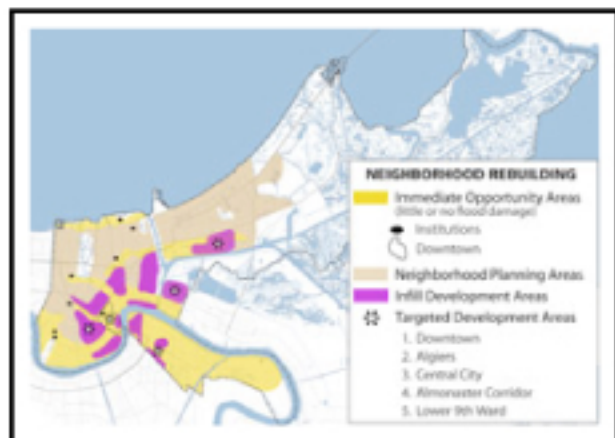
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### A Look Inside

The four federal banking regulatory agencies completed their congressionally mandated review of the Community Reinvestment Act (CRA) nearly a year ago. That review produced some of the most significant changes in the law's 29-year history. The definition of "community development" was broadened in an effort to provide more flexibility for institutions serving rural locales as well as federally designated disaster areas. The review also sought to reduce the regulatory burden on small banks with assets between \$250 million and \$1 billion and to provide them with more flexibility in complying with CRA while still encouraging them to lend and invest in their communities.

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### Is the Intermediate Small Bank Exam Right for Your Bank?

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thrift regulatory agencies made a number of important changes last year in the Community Reinvestment Act (CRA)—including a revised definition of community development in rural areas. This expanded definition, which is applicable to institutions of all sizes, supports and encourages CRA-related activities in rural communities.

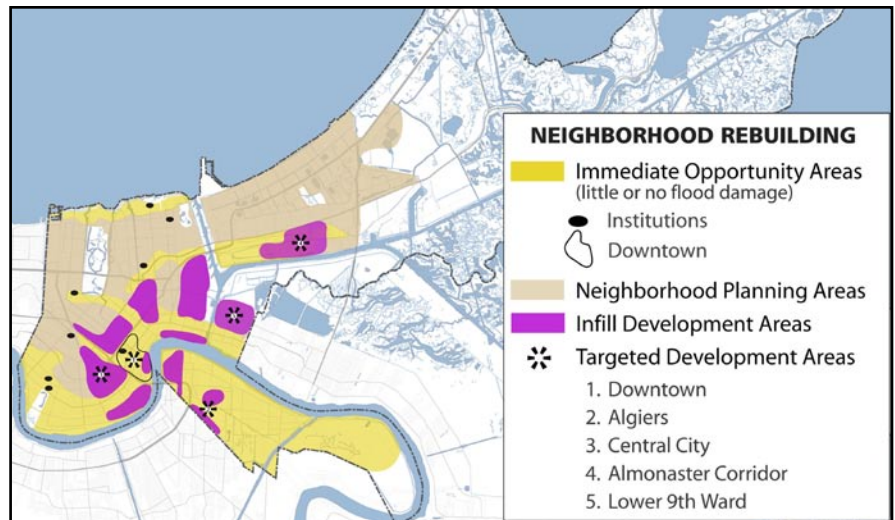
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# A Look Inside

The four federal banking regulatory agencies completed their congressionally mandated review of the Community Reinvestment Act (CRA) nearly a year ago. That review produced some of the most significant changes in the law's 29-year history. The definition of "community development" was broadened in an effort to provide more flexibility for institutions serving rural locales as well as federally designated disaster areas. The review also sought to reduce the regulatory burden on small banks with assets between \$250 million and \$1 billion and to provide them with more flexibility in complying with CRA while still encouraging them to lend and invest in their communities.

Also over the past year, the regulators have identified new geographic areas that are now eligible under the broadened community development definition and have provided clarification on the revised regulation by issuing new "Questions and Answers." In addition, corresponding clarifications issued under the OCC's Part 24 public welfare investment authority (12 CFR 24) explain what new types of Part 24 investments are eligible under the expanded CRA definition of "qualified investments."

In this edition of **Community Development Investments**, we discuss the factors that a bank in the \$250 million to \$1 billion asset range should keep in mind when deciding whether to be treated as an "Intermediate Small Bank" or "Large Bank" in its next CRA examination, and we look at how banks and examiners alike are approaching the new CRA rules. This issue answers some of the questions most frequently put to OCC's District Community Affairs Officers when they meet with banks about their options under the new CRA regulations. Finally, we review the types of investments now eligible under the Part 24 public welfare investment authority that were not permitted in the past.



**This map of New Orleans shows part of the federally designated disaster area (DDA) that followed hurricanes Katrina and Rita in 2005. Such maps help banks target their financial recovery efforts for community redevelopment, assuring consistency with the disaster recovery plans and geographic compliance with CRA requirements. See "Rebuilding Communities After a Disaster" for more details about addressing DDAs.**

**Source: Bring New Orleans Back Commission**

As customary in **Community Development Investments**, our District Community Affairs Officers report on new investment opportunities from around the country. They are available to answer questions about these investments, as well as questions about the new CRA rules or Part 24 interpretations.

We hope that you find this *E-zine* helpful as your bank implements its CRA program. If you would like to share your thoughts about this edition, or suggest topics for future editions, please contact me at the e-mail address below.

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# Is the Intermediate Small Bank Exam Right for Your Bank?

Karen Tucker, National Bank Examiner, Compliance Policy

Nearly a year has passed since the Office of the Comptroller of the Currency, working closely with the Federal Reserve Board and the Federal Deposit Insurance Corporation, revised the Community Reinvestment Act (CRA) regulation. One of the most significant changes was the creation of a new type of CRA evaluation for medium-sized banks. These banks, called “intermediate small banks” (ISBs), are defined as institutions with assets of \$250 million to \$1 billion. The new intermediate small bank examination was designed to reduce burden and improve flexibility for these banks by including a lending test and a community development test. ISBs are not required to collect and report certain CRA-related loan data. In addition, the ISB test does not prescribe a required threshold of community development (CD) loans, qualified investments, or CD services, but allows banks considerable discretion in how they structure their CD activities to respond to the community development needs of their assessment areas.

Although the changes to the regulation were effective September 1, 2005, some institutions may still not be familiar enough with the ISB examination to warrant a thorough discussion of how it compares with the lending, investment, and service test (under the large bank test), which previously had been the only option for banks in the \$250 million to \$1 billion range. The CRA regulation continues to allow an institution the option of being examined as a large bank if it collects and reports the required CRA loan data. However, before they can make an informed decision, bankers need to understand the

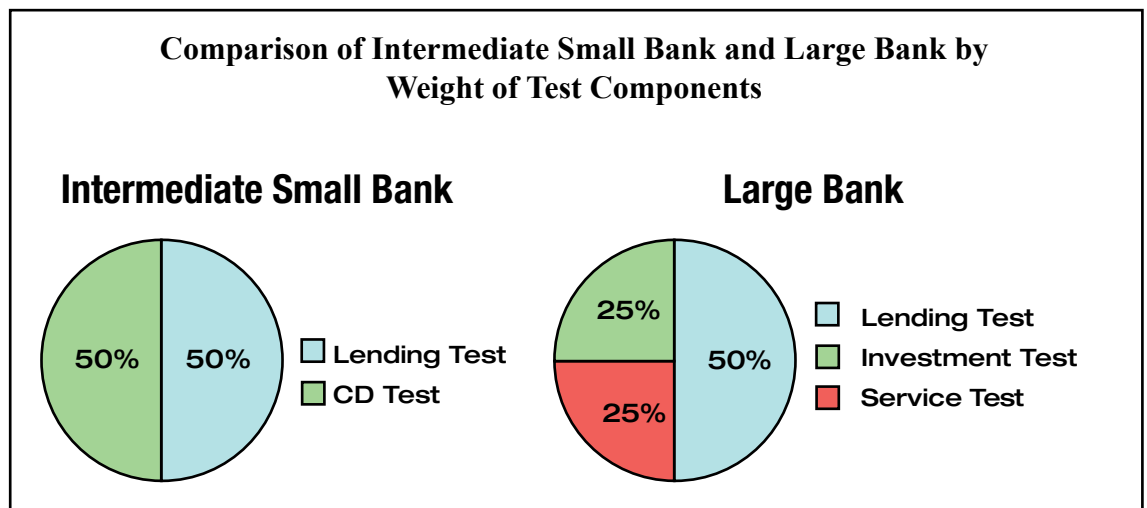


**Nazing Apartments, in Roxbury, Massachusetts, is pictured here during the renovation of 144 units of affordable housing. This project received bank financing through the Part 24 Public Welfare Investment Authority.**

difference between the two exams.

Prior to the regulatory revision, there had been four types of tests for CRA examinations:

1. Small bank test: a streamlined lending test with



The chart above illustrates the components and weighting of the ISB examination and the large bank examination.

an option to consider qualified investments and community development services

2. Large bank test: divided into three parts—lending, investments, and services—with lending receiving the most weight
3. Limited purpose or wholesale bank test: relies on a community development test focusing on CD loans, qualified investments, and CD services
4. Strategic plan examination: a custom-designed test based on a pre-approved CRA plan

To these options the banking regulators have added the ISB examination, consisting of the existing streamlined small bank lending test and a new CD test. The tests, which are evenly weighted to produce the overall rating, are designed to reduce the data burden on mid-sized banks and increase their options for addressing local CRA issues. Under this approach, banks provide less formal, but equally important, information about their retail lending performance, along with descriptions of their CD loans, qualified investments, and CD services for examiner review and analysis.

### **Framework for CRA Evaluations**

A critical component of any CRA evaluation is what examiners call “performance context,” which provides the framework for viewing the CRA activities and decisions that a bank makes. This framework is drawn from a combination of:

- A bank’s business strategy and major business products; its delivery methods, financial condition, and capacity to help meet local credit needs, including community development needs;
- The local economy, including needs and opportunities for lending and community development activities in the local area; and
- Any other relevant information that helps the examiner evaluate the bank’s CRA performance.

OCC examiners develop a performance context for each bank at the beginning of an examination by holding discussions with bankers and local community groups, as well as by considering any written information a bank might want to provide to identify local CD needs and opportunities. The examiner’s understanding of this performance context guides the judgment of the CRA ratings on the individual test components for every bank.

As in other types of examinations, banks under the ISB test should guide examiners to important information about their compliance efforts. For example, banks should provide examiners with information about local CD needs and opportunities. They should also explain how their CD-related activities and products were responsive to these identified needs in the communities they serve. Examiners can then review the materials and determine the extent to which the amount, combination, and quality of the CD loans, qualified investments, and CD services are responsive to the needs and opportunities in the banks’ assessment areas.

As part of their analysis, examiners ascertain whether banks’ activities reflect the credit, investment, and service needs of their communities. Do banks’ activities and decisions point to some special expertise or efforts to provide community benefits that otherwise would not exist? Do banks demonstrate critical understanding of community situations, such as when a smaller loan has more impact or benefit to a community than a larger loan? Examiners consider banks’ activities to be particularly responsive when they combine benefits to low- and moderate-income individuals with low- or moderate-income geographies, designated disaster areas, or distressed or underserved nonmetropolitan middle-income geographies. (See “Rebuilding Communities After a Disaster on page 15.”)

### **Comparing the Large Bank and ISB Tests**

Both large banks and ISBs undergo a lending test. Loans made by both categories of banks are examined for geographic distribution and activity in assessment area, but some other criteria differ. The chart below illustrates some of the similarities and differences in the lending tests for large banks and ISBs:

## Comparison of lending tests for ISBs and large banks

Intermediate Small Banks	Performance Criteria	Large Banks
√	Geographic Distribution	√
√	Borrower Distribution	√
	Activity in Assessment Area(s)	√
√	Loan-to-Deposit Ratio	
	CD Lending	√
	Innovative or Flexible Lending Practices	√
√	Responses to Complaints	
√	In/Out Ratio	√

### What are the relevant loans?

When examiners go into a large bank, they know which loan products they will examine because the CRA regulation tells them they must review and consider home mortgage, small business, small farm, and community development loans. (Examiners will also consider consumer data at the bank's request or if consumer loans constitute a substantial majority of its lending activity.) To accommodate this analysis, examiners have access to the large bank's CRA lending data in electronic form.

Mid-sized banks using the ISB approach provide information in a different form. In this case, examiners don't have mandated loan types to review and often don't have access to electronic loan data. So what do they do? The examiners first identify the primary loan products originated and purchased by the bank during the evaluation period. Primary loan products are loans that the bank originated or purchased most during the evaluation period, ranked by number of loans and dollar amount. These, along with any other loan data that management brings to the examiners' attention, form the basis for the lending analysis. Examiners review internal bank loan records and talk with bank managers to identify these loan products.

Because examiners typically do not have access to electronic data on an ISB's primary loan products, the examiners generally obtain lending data from either the loan credit files or internal bank records. For

example, if business lending is one of the primary loan products for an ISB, examiners will select a random sample of business loan files to review and pull the pertinent data directly from the files. Examiners can get data from the files on loan origination amount and date, the locality in which the loan was used, and whether the business borrower had gross annual revenues of \$1 million or less. These are the same data that large banks report electronically on small loans to businesses.

### Where Are the Loans?

Both the large bank and ISB lending tests include a geographic distribution analysis. In the large bank test, examiners consider the geographic distribution of the bank's home mortgage, small business, small farm, and consumer loans (if applicable) among low-, moderate-, middle-, and upper-income geographies in the bank's assessment area along with the dispersion of these loans within the assessment area.

Under the ISB test, examiners consider the same geographic distribution for the primary (and other loan data) products. But whereas the large bank test includes a review of the proportion of the bank's lending in its assessment area under a geographic distribution criterion, the ISB test includes the in/out ratio—a comparison of loans made inside the assessment area to loans made outside that area—as a separate performance criterion. As a result, the in/out ratio weighs more heavily in an ISB exam.

## Who Received These Loans?

Both tests look at borrower distribution—but again, this part of the analysis may include different loan types. In the large bank test, examiners consider the borrower distribution of the bank’s home mortgage, small business, small farm, and consumer loans (if applicable). In the ISB lending test, examiners consider the borrower distribution of the primary and other loan data loan products identified during the examination process. Both tests focus on the number and dollar amount of loans to low-, moderate-, middle-, and upper-income individuals, and to businesses and farms having gross annual revenues of \$1 million or less.

## Comparing Community Development Performance Criteria

It’s important to remember that although a single regulatory definition of community development applies to banks of all sizes, ISB and large bank examinations consider community development activities in different tests. Large banks allocate their CD activities into three *different* tests—lending,

investments, and service. ISB examinations consider CD lending, qualified investments, and CD services under *one* CD test.

## Community Development Lending

Community development loans are part of the lending criteria for a large bank. Examiners consider the number and dollar amount of CD loans, as well as their complexity, innovativeness, and responsiveness. Community development lending always has a neutral or positive impact on a large bank’s lending test rating and can help a bank improve that rating from “satisfactory” to “outstanding.” In fact, exceptionally strong CD lending can also help mitigate other weaknesses within the large bank lending performance criteria, such as a poor geographic distribution. This potential impact adds some flexibility to the large bank lending test. Examiners also consider, as a separate lending criterion, a large bank’s use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income

## Evaluating Community Development Performance

	Criteria	Evaluation
<b>ISBs</b>	<p>The CD test includes</p> <ul style="list-style-type: none"> <li>• Number and dollar amount of CD loans</li> <li>• Number and dollar amount of qualified investments</li> <li>• The extent to which the bank provides CD services</li> </ul>	<p><i>Responsiveness</i> of CD loans, qualified investments, and CD services, evaluated together, to local needs. Examiner determination is based on <i>performance context</i> and bank activities and products.</p>
<b>Large Banks</b>	<ul style="list-style-type: none"> <li>• CD loans considered in <i>lending test</i></li> <li>• Dollar amount of qualified investments—in the <i>investment test</i></li> <li>• Retail and CD services considered in the <i>services test</i></li> </ul>	<p><i>Innovativeness or complexity</i> of CD loans and qualified investments; The degree to which the qualified investments are not routinely provided by private investors; <i>responsiveness</i> of CD loans and qualified investments to credit and community development needs; <i>innovativeness</i> and <i>responsiveness</i> of CD services</p>

The chart above illustrates some of the differences between how the ISB and large bank tests evaluate community development performance.

individuals or geographies. In contrast, CD lending in an ISB test is considered only within the CD test, as part of a range of activities that are evaluated together to determine bank responsiveness to identified CD needs and opportunities in its assessment area.

### **Qualified Investments**

Qualified investments (QI) made by an ISB are considered in the CD test, while large banks have a separate investment test. In the ISB test, qualified investments are evaluated for number and dollar amount, as well as responsiveness to local needs. The large bank investment test, however, evaluates the dollar amount of qualified investments, innovativeness, or complexity of qualified investments, the responsiveness of QI to credit and community development needs, and the degree to which the qualified investments are not routinely provided by private investors.

### **Community Development Services**

The ISB and large bank tests take different approaches to the evaluation of community development services. When examiners consider services under the large bank test, they look at retail services and CD services separately. The retail services review includes:

- The bank’s record of opening and closing branches;
- The current distribution of branches among low-, moderate-, middle-, and upper-income geographies;
- The availability and effectiveness of alternative delivery systems for retail services in low- and moderate-income geographies and to low- and moderate-income individuals; and
- The range of services provided and the degree to which these services are tailored to meet the needs of these different income-level geographies.

In the ISB test, however, examiners consider the *extent* to which the bank provides community development services and how responsive these CD services are when evaluated together with the bank’s qualified investments and CD loans. Thus, examiners will consider the types of CD services provided that benefit

low- and moderate-income individuals, such as low-cost bank checking accounts and low-cost remittance services. They will also consider the provision and availability of CD services to low- and moderate-income individuals, including those delivered through branches and other facilities located in low- and moderate-income areas. Generally, the presence of branches in low- and moderate-income geographies will help to demonstrate the availability of banking services to low- and moderate-income individuals.

Bankers who need help identifying opportunities for CD loans, qualified investments, and CD services should contact their local examiners or their District Community Affairs Officers (see “CRA Consultations Available” on page 16), who can work with them to help identify opportunities and needs in their institutions’ assessment areas. (See “Community Affairs Index: Articles and Opportunities on Community Development Topics of Interest” on page 16.)

### **Evaluating Community Development Criteria**

A bank that knows its community is one step ahead. Examiners request information about ISB and large banks’ CD loans, qualified investments, and CD services through their examination request letters, which are sent in advance of every examination. They also will accept any other information bank managers provide, including any CRA lending analyses, self-assessments, or information about the assessment area, such as local economic conditions and credit needs. CD performance is considered in light of a bank’s capacity, business strategy, the needs of the community, and the number and types of opportunities for each type of community development activity (its performance context). Examiners also will consider the results of any assessment by the institution of community development needs and how the bank’s activities respond to those needs.

In both large bank and ISB tests, considering the qualitative aspects of performance recognizes that community development activities sometimes require special expertise or effort on the part of the institution to provide a benefit to the community that would not otherwise be made available. In fact, in some cases, a smaller loan may have more qualitative benefit to a community than a larger loan. Activities are considered particularly responsive to community



development needs if they benefit low- and moderate-income individuals in low- or moderate-income geographies, designated disaster areas, or distressed or underserved nonmetropolitan middle-income geographies.

An ISB has the flexibility to allocate its resources in amounts that it reasonably determines are most responsive to community development needs and opportunities within one CD test. While the CRA regulation does not prescribe a required threshold for CD loans, qualified investments, and CD services, an ISB may not simply ignore one or more of these categories of community development. Instead, based on the bank's assessment of community development needs in its assessment area, it may engage in different degrees of community development activities that are responsive to those needs and consistent with the bank's capacity.

For an ISB test, examiners evaluate whether the amount and combination of CD loans, qualified investments, and CD services, along with their qualitative aspects, are responsive to the CD needs and opportunities in the bank's assessment area. This means that the bank should be familiar with the CD needs of its assessment area and then structure its CD activities in a way that will be responsive to these identified needs.

A large bank test, in contrast, includes CD lending in the lending test, qualified investments in the investment test, and CD services in the services test. Appropriate levels of each of these activities depend on the capacity and business strategy of the bank, community needs, and number and types of opportunities for community development.

### **Calculating a Rating**

The determination of overall CRA ratings also differs for ISBs and large banks. An intermediate small bank must get a "satisfactory" on both the lending and the CD tests to get an overall "satisfactory" rating in CRA. It is possible for an ISB to get a "satisfactory" on one test and an "outstanding" on the other and receive an overall "outstanding" rating. But an ISB that gets a "needs to improve" on one of the tests will not receive an overall "satisfactory" rating.

Large banks, on the other hand, are rated on lending, investments, and services separately and they must achieve at least a "low-satisfactory" rating on the lending test to be rated "satisfactory" overall—regardless of their ratings on the investments and services tests. At the same time, a large bank that is rated "needs to improve" in either investments or services could still achieve an overall satisfactory rating with strong performances in the other two categories.

- For more information on ISB examination procedures, refer to <http://www.ffiec.gov/CRA/pdf/isbank.pdf>.
- For more information on large bank ratings, refer to the CRA regulation (<http://www.occ.treas.gov/fr/cfrparts/12CFR25.htm>).
- For more information on the large bank CRA examination, refer to the CRA large bank procedures (<http://www.occ.treas.gov/handbook/craep.pdf>, page 34) and the OCC's large bank guidance (<http://www.occ.treas.gov/ftp/bulletin/2000-35a.pdf>).
- For Frequently Asked Questions (FAQs) about the ISB exam, refer to "Frequently Asked Questions About the Intermediate Small Bank Examination" on page 10.

# Frequently Asked Questions About the Intermediate Small Bank Examination

## **How is an intermediate small bank (ISB) examined?**

The ISB is subject to the existing small-bank lending test, along with a new community development test. The lending test consists of five performance criteria:

- Loan-to-deposit ratio
- Lending in and out of the assessment area
- Geographic distribution of loans
- Borrower distribution of loans
- Responses to complaints

The community development test evaluates an ISB's community development lending, qualified investment, and community development services. An ISB's community development performance is evaluated according to the following criteria:

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

## **What does an intermediate small bank have to do to earn a "satisfactory" or "outstanding" rating?**

An ISB must achieve a "satisfactory" rating on the lending *and* the community development tests to earn an overall "satisfactory" CRA rating. An ISB that receives an "outstanding" rating on one test and at least "satisfactory" on the other test may receive an overall rating of "outstanding." If an intermediate small bank receives a "needs-to-improve" rating on either the lending or the community development test,

it will receive an overall "needs-to-improve" rating.

## **Does an ISB have to be examined under the new intermediate small bank examination criteria?**

No. Any bank may elect to be evaluated as a large bank under the three-part lending, investment, and service test as long as it collects and submits the required loan data, as outlined in the regulation. See 12 CFR 25.21(a)(3).

## **When can an intermediate small bank stop collecting CRA loan data for small business, small farm, and community development loans?**

Intermediate small banks were permitted to stop collecting the CRA loan data on September 1, 2005.

## **Does an intermediate small bank have to submit CRA loan data collected in 2005?**

No.

## **What if the bank is unsure about whether to elect examination under the large bank test? Can it voluntarily submit the CRA loan data just in case?**

Yes, the agencies will accept voluntary submissions to preserve the large bank option. If the bank is unsure whether to stay under the ISB test or opt for the large bank test, it should collect and submit the data. Without the submission of the required data, it cannot be examined as a large bank.

## **Will the examiners use the CRA loan data collected in 2005, but not submitted, by an intermediate small bank in our next CRA exam?**

Yes. For example, if the examiner is evaluating an intermediate small bank, or a regular small bank's business lending practices, the examiner typically

must pull a loan sample to get the data for the analysis. If the bank has data on its business lending portfolio and the examiner is confident that the 2005 collected data are reliable, the examiner may use the 2005 data instead of sampling loans originated or purchased in 2005. Note that the examiner will look at more than one year of loan data.

**What examination cycle will the intermediate small banks use?**

The OCC's CRA examination cycle is based on the asset size of the bank. All banks with assets over \$250 million are on a risk-based cycle in which examinations are ordinarily started 36 months after the close of the last CRA examination. Banks with total assets of \$250 million or less are on a different examination cycle, as mandated by the Gramm–Leach–Bliley Act (GLBA). The GLBA-mandated examination cycle requires the OCC to examine a bank of this size that has a “satisfactory” rating no sooner than 48 months after the close of its last CRA examination, and if it has an “outstanding” CRA rating, no sooner than 60 months after the close of its last CRA examination.

**Is a bank with assets less than \$250 million that is owned by a large holding company still considered a large bank for CRA purposes?**

No. As of September 1, 2005, such a bank is considered to be a small bank.

# New CRA Help for Rural Communities

by Stephanie Caputo, Community Development Expert, Community Affairs

Recognizing that rural areas have lending, investment, and service needs that are quite different from those of urban geographies, the federal banking and thrift regulatory agencies made a number of important changes last year in the Community Reinvestment Act (CRA)—including a revised definition of community development in rural areas. This expanded definition, which is applicable to institutions of all sizes, supports and encourages CRA-related activities in rural communities.

Just as importantly, the revised definition clarifies that bank efforts to revitalize or stabilize designated disaster areas also are eligible for CRA consideration. This change is especially significant in light of the economic devastation caused last year by hurricanes Katrina and Rita in Texas, Mississippi, and Louisiana. (See “Rebuilding Communities After a Disaster” on page 15.)

## Redefining Community Development

Under the new definition of community development—which now expands into rural and middle-income locales—banks have greater opportunities to provide qualifying loans, investments, and services to their assessment areas. Eligible activities are those that revitalize and stabilize these rural or “nonmetropolitan middle-income areas.” These rural areas must be designated by the regulatory agencies as “distressed or underserved,” and some locations may qualify under both designations.

The revisions are intended most specifically to encourage community development activities in rural areas. Qualifying rural geographies are described in the regulations as “distressed or underserved,” because this terminology more fully covers the eligible geographies that will be designated using objective criteria.

Activities that “revitalize or stabilize” under the



**CRA is supporting and encouraging a greater level of community development activity in rural communities than ever before.**

broader definition of community development must benefit one of the following:

- Low- and moderate-income (LMI) geographies.
- Distressed or underserved nonmetropolitan middle-income geographies designated by federal bank and thrift regulators and based on two sets of criteria. The first criterion focuses on rates of poverty, unemployment, and population loss (measuring “distressed” areas), the second on population size, density, and dispersion (measuring “underserved” areas). These criteria indicate a community may have difficulty meeting essential community needs.
- Designated disaster area. According to the final interagency guidance published in March 2006, this is a major disaster area designated by the federal government. In particular, such disaster designations include major disaster declarations administered by the Federal Emergency Management Agency.

## Distressed Geographies under CRA

The criteria for distressed geographies under the

revised CRA enable a more careful targeting of rural middle-income tracts that are most in need of revitalization or stabilization. An activity revitalizes or stabilizes a qualifying distressed geography if it helps to attract new, or retain existing, residents or businesses. Also, an activity is presumed to revitalize or stabilize the area if it is consistent with a *bona fide* government revitalization or stabilization plan. Examiners will give greater weight to those activities that are most responsive to community needs, including the needs of LMI persons or neighborhoods.

One example of a qualifying activity would be the use of bank financing to attract a major new employer that would generate permanent job opportunities, which must include employment for LMI individuals.

### **Underserved Geographies Under CRA**

The revised regulation also permits examiners to give consideration to activities undertaken in geographically remote and underpopulated areas, where basic needs are often unmet. Some rural communities—although middle income and not necessarily in distress—have such small and sparse populations that they have difficulty financing the fixed costs of essential community needs, including infrastructure and community facilities. In these underserved areas, residents might live far from population centers and have to travel long distances to reach certain facilities, such as hospitals, schools, and day care centers.

Bank financing for activities in eligible underserved areas generally will receive favorable consideration if the activities serve essential community needs, which must include the needs of LMI persons. Examples of qualifying projects include an industrial park for businesses whose employees include LMI individuals, or a new sewer line that serves community residents, including LMI residents.

The federal banking agencies have adopted a twelve-month “lag period” immediately after an eligible census tract is reclassified as no longer meeting the criteria for a distressed or underserved area. This additional time would permit banks to plan and carry out activities that show responsiveness to local needs in these qualifying areas. The extended window for CRA consideration also acknowledges that certain

loans and investments may require an extended amount of time to put in place.

### **Affordable Housing Activities**

One thing that was *not* changed under the revised regulation was the definition of affordable housing. A bank activity that has the primary purpose of providing affordable housing to LMI individuals qualifies as community development regardless of its location.

Bank activity that provides housing for middle- or upper-income individuals may qualify as an activity that revitalizes or stabilizes an eligible distressed or underserved nonmetropolitan middle-income area as long as the housing *directly* helps in the revitalization or stabilization efforts by attracting new, or retaining existing, businesses or residents. This type of activity also may qualify if it’s located in a designated disaster area and assists in the disaster recovery.

However, as we’ve discussed previously, activities that are most responsive to community needs—including the needs of LMI persons or neighborhoods—would receive greater weight in the CRA evaluation. A loan made solely to provide housing for middle- or upper-income persons in a community that is in need of financing for LMI housing receives significantly less weight if there is little or no long-term benefit to LMI individuals.

Last year’s CRA revisions also expanded the range of qualified investments for distressed and underserved nonmetropolitan middle-income geographies, and for designated disaster areas. All qualified investments made under 12 CFR 25.23 (CRA) are considered eligible public welfare investments under 12 CFR 24.3. As such, these investments can be made under 12 CFR Part 24 investment authority. (See “Part 24 Embraces Community Reinvestment Act Changes” on page 16.)

### **Locating Eligible Distressed or Underserved Areas**

The federal banking agencies have published a list of qualifying distressed or underserved non-metropolitan middle-income geographic areas on the Federal Financial Institutions Examination Council (FFIEC) Web site at <http://www.ffiec.gov/cra/pdf/>

[2006distressedorunderservedtracts.pdf](#). The agencies will annually review and update the list of eligible rural census tracts that are distressed or underserved and will indicate which census tracts are in their lag periods. Additional information about the data sources used in developing the list may also be found on the FFIEC Web site. Finally, reference maps reflecting the status of census tracts throughout the United States can be found at <http://www.frbsf.org/community/craresources/cramap.html>. The FFIEC examination information page, which includes the list of official geographies as well as other CRA information, can be found at <http://www.ffiec.gov/cra/examinations.htm>.

To clarify the key regulatory changes, the agencies also issued companion interagency guidance on March 10, 2006, which can be found at <http://www.ffiec.gov/cra/pdf/06-2188.pdf>. The guidance contains a number of new Q&As that address the revised definition of “community development.” Bankers who want to gain a better understanding of the revised definition of “community development” in rural and disaster areas may contact their OCC examiner or District Community Affairs Officer. (See “CRA Consultations Available” on page 16.) They will work with bankers to help clarify community development activities and identify opportunities and needs in the banks’ assessment areas. (See “Community Affairs Indexes: Articles and Opportunities on Community Development Topics of Interest” on page 16.)

# Rebuilding Communities after a Disaster

National banks that help rebuild communities affected by hurricanes Katrina and Rita—including communities outside of their assessment areas—may receive positive consideration under the Community Reinvestment Act, the OCC confirmed in February 2006. Using a variety of reconstruction and rehabilitation efforts, banks have expressed their commitment to assist the stricken Gulf Coast region, and this new guidance (available at <http://www.occ.treas.gov/ftp/bulletin/2006-6.doc>) supports these efforts as long as the banks have adequately responded to community development needs in their own assessment areas.

Activities that benefit people whom Katrina and Rita displaced, including evacuees who have relocated to other parts of the country, may also earn favorable consideration for national banks. Hurricane-related damage created compelling community development needs that extend well beyond the Gulf Coast region, as the guidance recognizes. This broader policy interpretation benefits banks as well as the affected areas and populations.

Under federal banking regulations, an activity related to disaster recovery that helps to attract or retain businesses or residents is generally considered to revitalize or stabilize a designated disaster area. An activity is presumed to revitalize or stabilize the area if it is consistent with a disaster recovery plan or *bona fide* government plan to revitalize or stabilize the community. Examiners will give greater weight to activities deemed most responsive to community needs, including the extent to which those activities in the disaster areas benefit low- to moderate-income (LMI) individuals and neighborhoods, although all activities related to disaster recovery will be considered.

Examples of qualifying activities include providing housing, financial assistance, and services to individuals in designated disaster areas and individuals displaced from those areas, including LMI persons. Qualifying activities under the revised CRA rules also include the extension of credit or other types of assistance for essential infrastructure, community services, and rebuilding needs. Investments in entities

that provide community services to individuals in designated disaster areas and those displaced by disasters also qualify. National banks may provide these CRA-related activities directly or through third parties.

## Lag Periods for Disaster Area Activities

For CRA purposes, the agencies will consider disaster recovery-related activities that help to revitalize or stabilize a designated area within 36 months after the date of designation by the federal government. This window is designed to provide sufficient time for banks to finance and undertake a range of activities in response to the needs that result from the disaster. When there is a demonstrable community need to extend the time to assist long-term recovery efforts in a particular disaster area, the regulators will extend the period for positive consideration accordingly. Because of the devastation caused by hurricanes Katrina and Rita in the designated disaster areas on the Gulf Coast, the agencies plan to extend substantially the time beyond 36 months for recovery-related activities.

For further ideas on how banks can help address financial needs in communities affected by the 2006 Gulf Coast hurricanes, see:

- The OCC-developed fact sheet, “Rebuilding the Gulf Coast: How Banks Can Help,” at [http://www.occ.treas.gov/cdd/Hurricane\\_Fact\\_Sheet.pdf](http://www.occ.treas.gov/cdd/Hurricane_Fact_Sheet.pdf).
- A listing of federal designated disaster areas can be found at [http://www.fema.gov/news/disaster\\_totals\\_annual.fema](http://www.fema.gov/news/disaster_totals_annual.fema).

# CRA Consultations Available

The OCC's District Community Affairs Officers are available for one-on-one consultations with bankers to help them understand the types of activities that will meet the new CRA tests. Specifically, the District Community Affairs Officers can help to (1) explain what types of activities will qualify under CRA as community development lending, investment, and services; (2) review a bank's current community development lending, investment, and services

programs and provide ideas about activities eligible for CRA consideration; and (3) assist a bank in identifying community development partners as well as government programs that a bank may leverage to implement its CRA program.

## Community Affairs Indexes: Articles and Opportunities on Community Development Topics of Interest

Community Affairs has developed an archive of more than 100 articles on community and economic development topics, ranging from affordable housing to Native American banking. If you are interested in a specific topic, this is a resource you will want to visit at: [http://www.occ.gov/cdd/ca\\_archive.htm](http://www.occ.gov/cdd/ca_archive.htm). In addition, Community Affairs has compiled a listing of community development opportunities found across the country, as first identified in the Community

Affairs newsletters and electronic magazines. These opportunities are organized by states. If you are looking for an opportunity or contact in a specific location, this list can help. You will find the list at: [http://www.occ.gov/cdd/ca\\_archive.htm](http://www.occ.gov/cdd/ca_archive.htm).

## Part 24 Embraces Community Reinvestment Act Changes

The national bank public welfare investment authority (12 CFR 24 or "Part 24") facilitates making investments not otherwise expressly permitted under the National Bank Act. The investment authority provided under Part 24 allows banks to commit capital for much-needed community and economic development projects. These public welfare investments primarily benefit low- and moderate-income (LMI) individuals, LMI areas, or other areas targeted by a government entity for redevelopment. Many of these investments serve the dual purpose of helping banks meet their Community Reinvestment Act (CRA) goals. For over 40 years, national banks have been using the public welfare investment authority to make investments in essential activities, such as creating affordable housing and supporting other residential and commercial real estate development; providing equity for small business start-ups and expansions; and revitalizing or stabilizing government-designated development areas. In 2003, Part 24 was expanded to include investments

that would receive consideration under 12 CFR 25.23 (CRA) as "qualified investments." In 2005, CRA was modified to include:

- Activities to revitalize or stabilize *designated disaster areas* eligible for CRA consideration.
- Activities to revitalize or stabilize *distressed nonmetropolitan middle-income geographies* eligible for CRA consideration.
- Activities to revitalize or stabilize *underserved nonmetropolitan middle-income geographies* eligible for CRA consideration.

Investment activities which revitalize or stabilize the above-referenced geographies are now eligible under Part 24.

For further information and clarification on these modifications, visit <http://www.occ.treas.gov/cdd/pt24toppage.htm#questions>.



# This Just In...

## **Northeastern District**

**Denise Kirk-Murray (212) 790-4053**



## **New Empire Zone Designations**

New York State Empire Zones have been created in three new areas across the state. The Chinatown/Lower Manhattan section of New York City and the counties of Nassau and Livingston each received the Empire Zone designation recently. This designation will encourage rebuilding in Lower Manhattan, create opportunities and jobs for underserved communities in Nassau County and promote manufacturing in Livingston County.

The Empire Zone program was created as a community development tool to stimulate economic growth through tax credits and incentives, investment opportunities, new business attraction, and job creation and retention. It focuses on target areas in need of economic revitalization. Empire Zone designations are made under legislation enacted in 2005 that authorized the creation of 12 new Empire Zones over the next four years. These new zones will be in addition to the 72 areas previously designated throughout the state.

For further information on New York State's Empire Zones, contact Empire State Development at (800) 782-8369 or go online at <http://www.ny.gov>.

## **New Markets Venture Capital Fund**

CEI Community Ventures Inc. (CCVI) was formed to direct equity investments and management assistance funds to qualifying businesses located or willing to locate in low-income communities in Maine, Vermont, and New Hampshire. CCVI's mission is to realize a triple bottom line by supporting companies that demonstrate an ability to meet or exceed stated financial, social, and environmental aims. CCVI investments generally range between \$100,000 and \$500,000. CCVI is a for-profit subsidiary of Coastal Enterprises Inc., a nonprofit community and economic development organization based in Maine, and is a licensed New Markets Venture Capital (NMVC) company under the Small Business Administration's NMVC program.

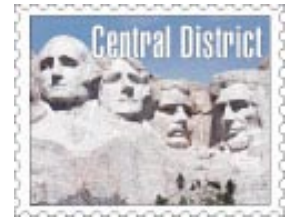
For more information, visit <http://ceicommunityventures.com> or contact CEI at (207) 882-7552.

## **Central District**

**Paul Ginger (312) 360-8876**

**Norma Polanco-Boyd**

**(216) 447-8866**



## **Community Development Financing in Wisconsin**

Forward Community Investments (FCI) is a 12-year-old nonprofit organization that makes loans and provides technical assistance to nonprofit organizations that develop affordable housing and community facilities and promote economic development. Formerly known as The Dane Fund, FCI recently began offering its services throughout Wisconsin. Since 1994, FCI has disbursed more than \$5.7 million in loans. And in each of the past several years, FCI has disbursed virtually every dollar of investment capital it has had available. Since 1994, FCI loans have resulted in more than 300 units of affordable housing, 485 new jobs, and the extension of social services to 21,000 low-income persons. Also since 1994, FCI reports no defaults in its portfolio and has experienced "a handful" of short-term delinquencies. In 2005, FCI provided training and technical assistance to 95 staff and board members from 50 nonprofit organizations that are new to affordable housing and real estate development. Beginning in 2006, FCI will provide real estate development planning and project management services to nonprofits on a fee-for-service basis. FCI is a certified community development financial institution by the Department of the Treasury. Banks can be involved by investing in FCI, by referring to FCI prospective borrowers that do not meet conventional credit criteria, by structuring FCI into financing packages in which the banks would like to participate, and by providing grants and in-kind donations to FCI.

For more information, visit <http://www.forwardci.org> or contact Salli Martyniak at (608) 257-3863.

## **Expanding Access to Health Care in Rural Kentucky**

The Kentucky Highlands Investment Corporation (KHIC) was recently awarded \$22 million in new markets tax credits (NMTC) to finance the development of medical facilities. These facilities will expand access to health care in rural Kentucky. Equity obtained from the sale of NMTCs will be used to provide low-interest loans to healthcare-related businesses. KHIC, a Community Development Entity, is currently seeking investors to purchase NMTCs, a qualified CRA investment. KHIC's first project, a \$4 million development, is in partnership with a local hospital. Plans are underway to identify other projects and secure financial partners.

For further information, contact Brenda McDaniel, vice president and chief financial officer at (606) 864-5175 or email her at [bmcdaniel@khic.org](mailto:bmcdaniel@khic.org).

## **Southern District**

**Karol Klim (678) 731-9723 x252**

**David Lewis (214) 720-7027**



## **Arkansas Employer-Assisted Housing**

Jefferson County Community Development Corporation (JCCDC), a not-for-profit housing development company in Pine Bluff, Arkansas, has announced the completion of plans to build an initial 80 units of new, single-family homes. University of Arkansas at Pine Bluff (UAPB) and local companies including Tyson Foods Inc. and Central Maloney Inc., each of whom has more than four hundred employees, have agreed to support an employer-assisted housing approach. The homes will be built on 176 plotted lots and will feature low-to-moderate income and market-rate housing. The development is adjacent to the UAPB, a historically black land-grant college located in Pine Bluff, Arkansas. This development is in a deteriorating part of the city known for its need for housing and neighborhood revitalization. The project is part of the original UAPB master plan and is under the current master plan for North Pine Bluff for residential housing. This development is a coordinated effort between UAPB, the City of Pine

Bluff, United Water, Entergy, Pine Bluff Water and Sewer, Reliant Gas, Arkansas Development Finance Authority and ACORN.

National banks interested in providing support for the project, including construction and permanent financing, are encouraged to contact Bob Francis at (501) 224-6511 or e-mail Bob at [caridc@swbell.net](mailto:caridc@swbell.net).

## **Access Capital Strategies, LLC**

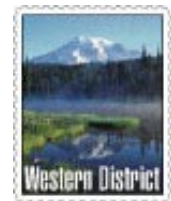
Access Capital Strategies Community Investment Fund, LLC, is a double-bottom line-oriented fund available to socially conscious investors. The fund was created in 1998 to serve as a vehicle to pool and manage community development investment opportunities while providing investors with competitive, risk-adjusted returns. The fund has assisted in the financing of affordable homeownership units, affordable rental units, SBA loans, and economic development loans in 44 states. Investors in the fund can geographically target their investments on a regional basis.

For further information, contact [dsand@accesscapitalfunds.com](mailto:dsand@accesscapitalfunds.com) or call (617) 236-7274.

## **Western District**

**Susan Howard (818) 240-5175**

**Dave Miller (720) 475-7670**



## **The Idaho Housing and Finance Association**

The Idaho Housing and Finance Association (IHFA) provides high-quality bank investment opportunities to support affordable housing for low- and moderate-income families in many urban and rural Idaho communities. IHFA is a not-for-profit, self-supporting housing finance association incorporated in 1974. With assets of more than \$2 billion and a statewide scope of operations, IHFA has provided funding for the purchase of more than 46,500 homes for Idaho families.

As a state-authorized affordable housing bonding authority, IHFA receives funding from many sources including funds provided by private investors, funds derived from the sale of tax-exempt mortgage revenue bonds, federal housing funds provided through the

HOME Program, the Low Income Housing Tax Credit Program, the Stewart B. McKinney Homeless Assistance Act, and Section 8 Rental Assistance contracts. IHFA raises millions of dollars in the U.S. capital markets and has formed partnerships with banking and lending institutions throughout the state of Idaho.

For additional information contact Executive Director Stephen Graham at (801) 366-0400 or e-mail him at [sgraham@ucrc.biz](mailto:sgraham@ucrc.biz).

For investor information, contact John Sager, IHFA's vice president for administration and chief financial officer at (208) 331-4889, or by email at [JohnS@ihfa.org](mailto:JohnS@ihfa.org). Additional information is also available on IHFA's Web site at [www.ihfa.org](http://www.ihfa.org).

### **Utah Community Reinvestment Corporation**

The Utah Community Reinvestment Corporation (UCRC) is a multibank affordable housing consortium established in 1998. UCRC is one of several funds chartered during the 1990s to provide long-term financing for multifamily housing developments for low- and moderate-income individuals and families. UCRC is a membership organization with 34 member banks. The organization provides loans and equity capital for multifamily rental projects throughout the state. Since its inception, UCRC's loan pool has grown from \$40 million to \$70 million. More than \$50 million has financed more than 2,240 affordable units. Another \$6 to \$8 million has been committed for an additional 437 units. The greatest number of projects are low-income housing tax credit investments. In addition to loans, the organization issues tax-exempt bonds and provides equity capital for projects. Most of UCRC's transactions range between \$200,000 and \$3 million, although the organization is authorized to provide up to \$7 million in financing. Transactions are available to both for-profit and non-profit developers.

UCRC is continually seeking new member banks to participate in the loan pools. Currently, the organization is considering several new loan pools including a tax-exempt bond pool, an equity investment pool, a workforce housing pool, and an agricultural housing pool. The establishment of any or all of the pools will require additional capital from member banks.