



Office of Thrift Supervision
Department of the Treasury

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MEMORANDUM FOR: Chief Executive Officers

FROM: Montrice Godard Yakimov *Montrice Godard Yakimov*
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SUBJECT: Strategic Plan and Wholesale/Limited Purpose Designations Under the CRA

On December 29, 1995 the OTS issued Chief Executive Officers memorandum #51 detailing the process savings associations must follow to request approval for a strategic plan or the Wholesale/Limited Purpose designation as allowed under the CRA. Since the issuance of CEO memorandum #51, the OTS has revised its CRA examination regulation and experienced several personnel changes. As a result, the procedures are being reissued to capture revisions in regulatory sections as well as the appropriate staff members associated with the approval process.

The CRA regulation adopted in April 1995 provides that savings associations, regardless of size or business strategy, can opt to be evaluated under an approved strategic plan (see 12 C.F.R. 563e.27). The regulation also allows savings associations who believe they are either “wholesale” or “limited-purpose” institutions to seek such designation by OTS (see 12 C.F.R. 563e.12 (v) and (x), and 563e.25) and be evaluated under a community development test.

If your savings association will be submitting a strategic plan approval request or a request to be designated as either “wholesale” or “limited-purpose”, you will find the attached guidelines helpful in preparing your submission to OTS. These guidelines were prepared on an interagency basis and are available to all banks and savings associations by their respective regulatory agencies.

The CRA regulation provides that you may submit your requests to OTS. OTS will normally provide notification of its decision to approve or deny the plan or designation within 60 calendar days after receiving the submission. The schedule will begin to run from the date we receive a complete submission that includes the material referenced in the attached guidelines as well as any other information that may be requested separately by OTS.

Your submission should be provided to your local OTS Regional Director. Compliance examination staff at the regional office will work with you in processing the submission and are

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available to answer any questions you may have. Please contact your Assistant Director of Compliance in your respective OTS regional office.

In addition, you may direct policy questions pertaining to the enclosed guidelines to either Celeste Anderson at (202) 906-7990 or celeste.anderson@ots.treas.gov or Stephanie Caputo at (202) 906-6549 or stephanie.caputo@ots.treas.gov in our Washington office.

(Attachment: Guidelines for Requesting Designation as a Wholesale or Limited Purpose Institution for Purposes of the Community Reinvestment Act)

**GUIDELINES FOR
REQUESTING DESIGNATION AS A
WHOLESALE OR LIMITED PURPOSE INSTITUTION FOR PURPOSES OF
THE COMMUNITY REINVESTMENT ACT**

Background and Purpose

Under the Community Reinvestment Act (“CRA”), institutions are evaluated on the basis of the product lines they offer in the normal course of business. Accordingly, wholesale institutions engaged in only incidental retail lending and limited purpose institutions offering a narrow product line to a regional or broader market, may request that they be assessed under the community development test. That test evaluates an institution’s record of meeting the credit needs of its assessment area through community development lending, qualified investments or community development services.

The OTS’ CRA regulation provides that, an institution must first receive a designation as a wholesale or limited-purpose institution in order to be evaluated under the community development test. In order to receive such a designation, an institution must file a request in writing with the OTS (12 C.F.R. § 563e. 25).

An institution will be evaluated under the community development test if its designation as a wholesale or limited-purpose institution is effective before the date of the commencement of the examination or evaluation. An institution presently operating as a wholesale or limited purpose institution should be prepared to be evaluated under the community development test as of the proposed effective date for the designation.

The provisions governing the process for requesting designation as a wholesale or limited purpose institution are contained in the CRA regulation, 12 C.F.R. § 563e.25. These guidelines do not supplant the regulation; rather they are intended to serve as guidance in preparing a request for submission to the OTS. These guidelines specify the types of information that an institution requesting designation as a wholesale or limited-purpose institution will generally need to submit. In addition to the items listed in the guidelines, an institution may submit any other information that it may consider relevant to the OTS’ decision.

The OTS will also review other relevant financial information, such as the uniform bank/thrift performance report (“UBPR/UTPR”), consolidated reports of condition/Thrift Financial Reports (Call Reports/TFR”), CRA and HMDA disclosure statements, supervisory reports, and prior CRA performance evaluations. This information is available in the OTS’ supervisory data bases, however, and need not be submitted by the institution.

Preparation and Submission of Request

The designation request should be submitted in writing, with the required information, to the Regional Director in the appropriate regional office as indicated on the attached list. Inquiries concerning the preparation of a request for designation should be directed to the same office.

The OTS may require the institution to submit any additional statements or information that it deems necessary. It is the institution's responsibility to submit the information necessary to demonstrate that the request for designation as a wholesale or limited-purpose institution meets the criteria for approval.

Each designation request should name a contact person at the institution. Upon receipt, the appropriate regional office will review the request as submitted to determine if it is complete. A request will be deemed to be complete when all relevant information has been received by the OTS. If the request is deemed to be incomplete, the OTS will notify the requesting institution, and will send a request for additional information to the named contact person. If any information initially furnished with the request for designation changes significantly during the processing of that request, the institution should communicate those changes promptly to the regional office.

Each request for designation should also contain a proposed effective date. The proposed effective date should be at least 90 days after the request for designation is submitted to the OTS.

Notification of Decision

The OTS will normally notify the institution in writing of its decision to approve or deny the request within 60 days of receiving a complete written request. If approved, the designation remains in effect until the institution requests revocation of the designation or until one year after the OTS notifies the institution that the OTS has revoked the designation on its own initiative.

Confidentiality

Under the provisions of the Freedom of Information Act ("FOIA")(5 U.S.C. § 552), a request for designation as a wholesale or limited-purpose institution that is submitted to the OTS is a public document and is available to the public upon request. The OTS' decision approving or denying a request for designation may also be available to the public under the FOIA.

An institution may request confidential treatment for information that would be exempt from the FOIA disclosure requirements. For example, if the requesting institution is of the opinion that disclosure of commercial or financial information would likely result in substantial harm to its competitive position or that of its affiliates, or that disclosure of information of a personal nature would result in a clearly unwarranted invasion of personal privacy, confidential treatment of such information may be requested. This request for confidential treatment must be submitted in writing concurrently with the filing of the request for designation as a wholesale or limited-purpose institution and must discuss in detail the justification for confidential treatment. Justification must be provided for each category of information for which confidential treatment is requested. The institution's request for confidentiality should explain the harm that would result from public release of the information.

Information for which confidential treatment is sought should be: (1) segregated from the other information that is submitted; (2) specifically identified in the nonconfidential portion of the designation request (by reference to the confidential section); and (3) labeled "Confidential." The requesting institution should follow this same procedure on confidentiality with regard to filing any supplemental information. The OTS will determine whether information labeled "Confidential" will be so regarded, and will advise the requesting institution of any decision to make information labeled "Confidential" available to the public.

An institution should follow the rules stated above when submitting confidential supervisory information, which includes any information contained in, related to or derived from reports of examination and inspection, or confidential operating and condition reports.

Requested Information

1. A request for designation as a wholesale or limited-purpose institution should state how the institution satisfies one of the following definitions:
 - Wholesale institution: an institution that is not in the business of extending home mortgage, small-business, small-farm or consumer loans to retail customers. An institution will not be considered in the business of extending loans to retail customers if it does not hold itself out to the retail public as providing such loans and the institution's revenues from extending such loans are insignificant when compared to its overall lending operations. Wholesale institutions may engage in very limited retail lending, if this activity is incidental and is done on an accommodation basis.

- Limited purpose institution: an institution that offers only a narrow product line (such as credit cards or automobile loans) to a regional or broader market. A limited-purpose institution continues to meet the narrow product line requirement if it provides other types of loans on an infrequent basis.

A so-called “niche institution,” (an institution that is in the business of lending to the public, but that specializes in certain types of retail loans or extending credit to a group of borrowers with, for example, certain financial or professional characteristics) would not generally qualify as a wholesale or limited purpose institution. A savings association or savings bank would generally not qualify as a limited purpose institution absent additional limitations on its activities.

The statement should contain facts and data sufficient to describe the nature of the institution’s current and prospective business, credit products offered, and the market area served. For a de novo institution, the written request must include a business plan that contains a description of the institution’s proposed nature of business, credit and other product(s) to be offered, and the market area to be served.

2. If the institution engages in retail or other lending activities that may not be viewed as consistent with its request for designation as a wholesale or limited-purpose institution, it should provide sufficient information about those activities to allow the OTS to determine whether they are infrequent, incidental or performed on an accommodation basis. This information should address the following elements, as appropriate.

- a. Describe each type of activity and the conditions or circumstances under which the institution offers the product or service.

For example, if the institution engages in mortgage lending, explain whether such loans are offered to the general public or, for example, are offered only to corporate customers or employees of the institution.

- b. State the percentage of the institution’s assets and income that each activity represents.
- c. Explain how the incidental lending activity relates to the institution’s assessment area(s).
- d. State whether the volume of incidental lending activity would be sufficient to allow for a reasonable evaluation of the institution’s performance under the lending test.

3. Describe any legal constraints or limitations that affect the type of credit services that the institution may offer.
4. Describe the institution's assessment area(s) and the location of its branches and offices. The institution's assessment area(s) must generally consist of one or more Metropolitan Statistical Areas, Metropolitan Divisions, or one or more contiguous political subdivisions in which the institution has its main office, branches, and deposit taking ATMS.
5. Explain how the institution's network of branches is consistent with the designation as a wholesale or limited-purpose institution.
6. State the proposed effective date for the designation, which should be at least 90 days after the request is submitted to the OTS.

GUIDELINES FOR REQUESTING APPROVAL FOR A STRATEGIC PLAN UNDER THE COMMUNITY REINVESTMENT ACT

Background and Purpose

These guidelines apply to any type of institution that is subject to the Community Reinvestment Act (“CRA”) and that wishes to request that it be evaluated on the basis of a strategic plan. These guidelines also apply to requests formal approval to amend a strategic plan.

The strategic plan evaluation option in the regulation provides an institution with the opportunity to tailor its CRA objectives to the needs of its community and to its own capacities, business strategies and expertise. Therefore, not all of the factors described in the regulation would necessarily apply to each strategic plan. An institution has a great deal of latitude in constructing a strategic plan, but it is expected that public participation in development of the plan will provide an institution access to the fullest possible information about the needs of its community and how those needs might be met.

The required contents of a strategic plan and the OTS’ criteria for evaluating a strategic plan, are specified in the OTS’ CRA regulation, 12 C.F.R. § 563e.27. These guidelines do not supplant the regulation; rather, they are intended to serve as guidance in the preparation of a strategic plan and submission of the plan to the OTS for approval. These guidelines specify the types of information that an institution will generally need to submit in requesting that it be evaluated on the basis of a strategic plan. In addition to the items listed in the guidelines, an institution may submit any other information that it may consider relevant to the OTS’ decision.

Performance context. A proposed strategic plan will be evaluated in the context of the information described generally in the OTS’ CRA regulation, 12 CFR § 563e.21(b). This information could include, as appropriate: demographic data on median income and household income; housing costs; lending, investment and service opportunities in the institution’s assessment area(s); the institution’s product offerings and business strategy; institutional capacity and constraints (including the institution’s size and financial condition, and economic climate); past performance of the institution, and relevant information from the institution’s public file. The agencies will not expect the institution to supply more information regarding the performance context than it would normally develop to prepare a business plan or to identify potential customers, including low- and moderate-income individuals or geographies in its assessment area(s).

Information submitted by the institution will be considered along with information from community, government, civic and other sources.

Public comments. Public comment is important to, but not determinative of, the decision on strategic plan approval. The public comments will be reviewed by the OTS to determine whether the institution offered the opportunity for community input into the plan, to assess the degree of support for the institution's goals, and to evaluate the appropriateness of those goals. The agency will, if necessary, consider other information regarding the performance context in addition to the public comments and information submitted by the institution.

Election of alternative assessment method. An institution may elect in its strategic plan, that if it fails to meet substantially the plan goals for a satisfactory rating, its CRA performance will be evaluated under the (1) lending, investment and service tests, (2) community development test or (3) small-institution performance standards, whichever may be appropriate. If such an election is not made in the strategic plan, the institution will be evaluated only under the strategic plan, and failure to meet substantially the goals set forth for satisfactory performance will result in assignment of a rating of "needs to improve" or "substantial noncompliance."

Preparation and Submission of a Proposed Strategic Plan

An institution's proposed strategic plan, along with all requested information, should be submitted in writing to the federal regulatory agency that exercises primary supervisory authority with respect to that institution. If a proposed plan covers more than one affiliated institution, a copy of the entire plan should be submitted to each federal bank regulatory agency that has primary supervisory responsibility for one or more institutions covered by the plan. If a proposed strategic plan is being submitted on behalf of more than one institution, each institution must receive the approval of its own supervisory agency for those portions of the plan relating to that institution's CRA responsibilities.

A proposed strategic plan should be submitted to the appropriate office designated by the OTS. For this purpose, proposed strategic plans shall be submitted to the appropriate regional office to the attention of the Regional Director. Inquiries concerning the preparation of a strategic plan should also be directed to that office.

The Regional office may require the institution to submit any additional statements or information that it deems necessary. It is the institution's responsibility to submit the information necessary to demonstrate that the proposed strategic plan meets the criteria for approval.

Each request for approval of a proposed strategic plan should name a contact person at the institution. Upon receipt, the regional office will review the proposed strategic plan and related material to determine if the request is complete. A request for approval of a strategic plan will be deemed to be complete when all relevant information has been received by the Regional Office. If the request is deemed to be incomplete, the Regional Office will notify the requesting institution(s) and a request for additional information

will be sent to the named contact person. If any information initially furnished with the request changes significantly during the processing of that request, the institution should communicate those changes promptly to the Regional office.

Each request for approval of a proposed strategic plan should also contain a proposed effective date. The proposed effective date should be at least 90 days after the request is submitted to the OTS. The institution will not be evaluated under a strategic plan until the institution has been operating under an approved and effective plan for at least one year.

Notification of Decision

The OTS will act upon an institution's request for approval of its proposed strategic plan within 60 calendar days after the agency receives the complete plan, unless the agency extends the review period for good cause. The OTS will notify the institution of any extension of the review period, the reason for the extension and the date by which the agency expects to act upon the request. If the OTS fails to act within this time period, the proposed plan will be deemed approved.

If a strategic plan covering multiple institutions must be approved by more than one regulatory agency, each agency will issue a decision approving or denying the request with respect to the institution(s) for which that agency has primary supervisory responsibility.

Confidentiality

Under the provisions of the Freedom of Information Act ("FOIA")(5 U.S.C. § 552), a request for approval of a proposed strategic plan that is submitted to the OTS is a public document and is available to the public upon request. The OTS' decision approving or denying a proposed strategic plan may also be available to the public under the FOIA.

An institution may request confidential treatment for information that would be exempt from public disclosure under the FOIA. For example, if the requesting institution is of the opinion that disclosure of commercial or financial information would likely result in substantial harm to its competitive position or that of its affiliates, or that disclosure of information of a personal nature would result in a clearly unwarranted invasion of personal privacy, confidential treatment of such information may be requested. This request for confidential treatment must be submitted in writing concurrently with the filing of the strategic plan and must discuss in detail the justification for confidential treatment. Justification must be provided for each item or category of information for which confidential treatment is requested. The institution's request for confidentiality should explain the harm that would result from public release of the information.

Information for which confidential treatment is sought should be: (1) segregated from the other information that is submitted; (2) specifically identified in the nonconfidential portion of the strategic plan (by reference to the confidential section), and; (3) labeled “Confidential.” The requesting institution should follow this same procedure on confidentiality with regard to filing any supplemental information. The OTS will determine whether information labeled “Confidential” will be so regarded, and will advise the requesting institution of any decision to make information labeled “Confidential” available to the public.

An institution should follow the rules stated above when submitting confidential supervisory information, which includes any information contained in, related to or derived from reports of examination and inspection, or confidential operating and condition reports.

Requested Information

The requirements for a strategic plan are contained in the OTS’ CRA regulation, 12 C.F.R. § 563e.27. An institution requesting approval for a strategic plan will generally need to submit:

1. The names of each institution joining in the plan and a description of how they are affiliated. The agencies will approve a joint plan only if the plan provides measurable goals for each institution.
2. For each institution, an identification of the assessment area(s) covered by the including a list of the geographies involved.
3. The proposed term of the plan. A plan may have a term of no more than five years.
4. The proposed effective date for the plan, which should be at least 90 days after the plan is submitted to the OTS.
5. A description of the formal or informal public input received during development of the plan. Copies of any written comments that were received during the development of the plan may be provided.
6. A copy of the required public notice and the name(s) of the newspaper(s) in which it was published.
7. Copies of all written comments received during the comment period.
8. A copy of the strategic plan released for public comment if it is different from the strategic plan being submitted for agency approval.

9. For each assessment area, for each institution covered by the plan, copies of any information developed in the institution's normal business planning that it wants the OTS to consider regarding lending, investment and service opportunities in the assessment area, including a description of any legal constraints or limitations that affect the type of loans, investments or services that the institution may make or offer.
10. For each assessment area, for each institution covered by the plan, measurable goals for helping to meet the credit needs of the assessment area, particularly the needs of low- and moderate-income geographies and individuals. If the plan for an institution encompasses the activities of non-depository institution affiliates, it is not necessary to state separate goals for each such affiliate.

Generally, an institution shall discuss its plans regarding lending, investments and services, with an emphasis on lending and lending related activities. However, the plan need not specify measurable goals in all three categories. Generally, an institution that has been designated a wholesale or limited purpose institution shall emphasize community development lending, qualified investments and community development services. However, a plan need not follow the general rule if the emphasis of the plan is responsive to the characteristics and credit needs of the particular assessment area(s), considering the public comments and the institution's capacity, constraints, product offerings and business strategy.

Accordingly, for each assessment area for each institution covered by the plan:

- (a) A plan must include measurable annual goals that, if met, would constitute "satisfactory" performance.¹ Multi-year plans must include annual interim measurable goals.
- (b) A plan may also include measurable goals for any institution covered by the plan that, if met, would constitute "outstanding" performance for that institution.

¹ Measurable goals are goals that are stated in quantifiable terms. However, institutions are provided flexibility in specifying goals. For example, an institution may provide ranges of lending amounts in different categories of loans. It would also be appropriate for an institution to plan on making a certain number of loans or lending a specific amount in a particular area or with respect to a particular project. An institution might plan on providing community services measured in terms of the frequency of use or amount of staff resources involved. In addition, an institution could provide a menu of activities, each with a weighted point value, from which a measurable goal could be stated in point totals. Measurable goals may also be linked to funding requirements of certain public programs or indexed to other external factors as long as these mechanisms provide a quantifiable standard.

11. An indication whether any institution covered by the plan elects to be evaluated under another assessment method (e.g., large retail institution assessment method) if the institution fails to meet substantially the strategic plan goals for a satisfactory rating.