Comptroller of the Currency
Administrator of National Banks

Executive Summary

Web and Telephone Seminar
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The New CRA Perspective for You and Your Bank

Speakers:

John C. Dugan
Ann F. Jaedicke
Michael S. Bylsma
Karen Tucker
Calvin R. Hagins

Following is an executive summary of this OCC Web/Telephone seminar covering:

- Changes in the CRA rules.
- The new category of Intermediate Small Bank (ISB).
- The new type of examination for ISBs, with a new community development test.
- How banks in all categories can prepare for their next examination.

The New CRA Perspective for You and Your Bank

OCC Speakers: **John C. Dugan**, Comptroller of the Currency
Ann F. Jaedicke, Deputy Comptroller for Compliance Policy
Michael S. Bylsma Director, Community and Consumer Law Division
Karen Tucker, National Bank Examiner and Senior Compliance Specialist
Calvin R. Hagins, Director for Compliance Policy

Overview

Changes to the Community Reinvestment Act (CRA) which went into effect in September, 2005, expand the definition of small banks by creating a new category of Intermediate Small Bank (ISB), and encourage community development (CD) activities in distressed and underserved rural areas as well as designated disaster areas.

A new exam for ISBs includes the small bank lending test and a CD test that looks at a bank's CD activities. Critical to the CD test is looking at the specific needs in a community and assessing the bank's activities in addressing those needs. Preparation for your bank's exam is critical. This entails considering your institution type and exam options, determining data collection requirements, and being able to tell your bank's story and explain its results.

Context

This group of OCC experts discussed the creation of ISBs and other changes in the CRA rules, the new ISB examination, and how to prepare for examinations.

Key Learnings

- **The CRA has been beneficial for banks and communities, but complying with the CRA was a burden for smaller banks.**

  The CRA has helped attract billions in capital for small farms and businesses, affordable housing, and urban regulation. But the data collection, recordkeeping, and reporting requirements imposed a heavy burden on small community banks.

- **Changes to the CRA reduce the regulatory burdens for small banks and encourage community development activities in rural areas and in areas affected by designated disasters.**

  CRA changes took effect September 1, 2005. The key changes are:

  1. *New definition and category*: The threshold for a small bank was raised from $250 million to $1 billion and assets of a bank's holding company are no longer taken into account. Also, a new category of Intermediate Small Bank (ISB) was created for banks from $250 million to $1 billion in assets. To graduate from a small bank to an ISB a bank must have assets of at least $250 million as of December 31 of both of the two prior calendar years. To move from an ISB to a large bank, a bank must have $1 billion in assets for two calendar years. The asset thresholds will be raised annually based on changes in the consumer price index.

     As a result of these changes, about 400 banks are no longer classified as large banks under CRA rules, and are no longer subject to the data collection and reporting requirements of large banks.

  2. *New CD test*: Small banks will still be evaluated using the streamlined small bank lending test. In addition, ISBs will be evaluated under the same streamlined lending test and also under a new community development test. The new CD test looks at: the number and amount of CD loans; the number and amount of qualified CD investments; the extent to which the banks provide CD services; and how responsive a bank is to local CD needs.

     The new CD test for ISBs is different from the large bank lending, investment, and service test in two key respects: 1) it is more flexible. The test does not dictate how much a bank has to do in each category of loans, investments, and services. Instead, a bank's performance will be judged based on its capacity and business strategy along with the needs and opportunities for community development in the local areas; and 2) retail banking services are not considered in the new test, nor is a bank's record of opening and closing branches.

  3. *CD in rural areas*: Limitations in the prior rules acted as a disincentive for investments in rural areas. The new rules expand on the definition of community development to include rural area investment, which benefits banks and communities. Under the new CRA rules, activities that help revitalize or stabilize a community designated as "distressed" or "under-served" will qualify as CD activities.

     Generally speaking, "distressed" is a middle-income rural geography with high unemployment, poverty, and/or population loss. An "underserved" area is one that is thinly populated and far from a population center. "Revitalize and stabilize" are viewed as activities that help attract or retain residents or businesses or create jobs in the area. In an underserved area, activities can include financing essential infrastructure as well as facilities for essential services in areas such as health care, education, and affordable housing.

  4. *CD in designated disaster areas*: The new CRA rules broaden the definition of community development to include activities that help revitalize or stabilize designated disaster areas. (The standards that apply are the same as those for distressed areas.) Banks will get CRA credit for activities that benefit people in a designated disaster area as well as people who have been displaced by disasters.

> *"There is much in the new CRA rules that can benefit your bank."*
> - Michael S. Bylsma

- **With the creation of the ISB category, a new type of CRA examination has been developed for ISBs.**

  To date there have been four types of CRA examinations:

  1. *Small bank*: This is the streamlined lending test.

2. *Large bank*: This test has three parts: lending, investment, and services. Lending receives the most weight.
3. *Limited services/wholesale*: This has a CD test on loans, qualified investments, and CD services.
4. *Strategic plan*: This exam is based on an approved CRA strategic plan.

With the creation of the ISB category a new examination has been developed for ISBs. This exam includes the small bank streamlined lending test along with a new CD test. (Banks meeting the definition of an ISB will be evaluated as ISBs unless they opt to be evaluated as a large bank or choose to develop a strategic plan. For banks considering how to be evaluated, an OCC Q&A is available on the slide, and they can also speak with their examiner.)

Lending test. The ISB lending test involves five criteria:

1. *The loan-to-deposit ratio*: This answers, "Are you lending?"
2. *The in/out ratio*: This addresses whether banks are lending in their assessment area.
3. *Geographic distribution of loans*: This also looks at lending within the assessment area.
4. *Borrower distribution of loans*: This focuses on who you are lending to.
5. *Response to complaints*: This analyzes responsiveness to complaints.

For small banks and ISBs, examiners first determine the bank's one or two primary loan products. (This differs from the process at large banks where CRA regulations mandate review of a broad range of products.) Examiners then collect data about these one or two primary products (and do not collect data on other products) from credit files or reliable electronic bank data. They review internal reports, trial balances, and other financial records, and speak with management to develop an understanding of the bank's loan products. Examiners also assess the bank's "performance context." This includes understanding the bank's strategy, its community and local economy, delivery methods, financial conditions, capacity to help meet credit needs, and opportunities for CD activities.

The new CRA rules involve a change in data collection for ISBs. Prior to September 2005, most banks that are now ISBs were large banks, which are required to collect certain loan data. Collecting this data is no longer required for banks that are no longer classified as large.

CD test. The other test for ISBs is the CD test. This test evaluates the number and amount of CD loans and qualified investments, the extent to which a bank provides CD services, and the bank's responsiveness to CD needs. In the ISB exam, CD loans, qualified investments, and CD services are evaluated together as a whole and result in a single CD rating. The context is also important in the CD test. The regulations state that a bank will be expected to assess the needs of its community, engage in different types of CD activities based on those needs and the bank's capacity, and take reasonable steps to apply CD resources strategically to meet those needs.

In the ISB CD services test, retail and CD services are looked at together, which differs from the large bank examination where they are looked at separately. The CD services review for an ISB includes the provision and availability of services to low- and moderate-income individuals including through branches and other facilities in low- and moderate-income areas. Examiners will specifically look for services such as low-cost checking and programs for first-time home buyers. The key is understanding the needs within a community and assessing the bank's performance in meeting these needs. With the expansion of the CD definition, there are more opportunities for banks to make loans and qualified investments and to offer CD services.

> *"If there is a need in a community and the bank has the capacity to meet that need, we expect to see something [in that area]."*
> - Karen Tucker

The lending and CD tests are each rated separately. An ISB must receive at least a satisfactory rating on each test to be rated satisfactory overall. A bank can be rated outstanding if it receives an outstanding rating on one test and a satisfactory rating on the other. A bank receiving a "need to improve" on either test will not receive an overall rating of satisfactory.

- **Getting ready for an exam requires careful preparation and being able to explain why.**

  In getting ready for their next examination, banks need to consider their institution type and their exam options. They should speak with their examiner well in advance of the exam to understand the exam process. It is also critical to understand the specific data requirements. Complete and accurate data are the cornerstone of the exam process. In preparing for the exam it is important to evaluate your data, to tell your institution's story, and to be able to explain why.

> *"Tell the examiners what the numbers mean and why."*
> - Calvin R. Hagins

Other Important Points

- **Additional CRA change.** An additional CRA change concerns the effect on a bank's CRA ratings of evidence of lending discrimination or other illegal credit practices by the bank or an affiliate whose loans have been included in the bank's CRA evaluation. For questions about this change, consult your examiner.
- **Exam cycle.** For banks with total assets over $250 million, the exam cycle is 36 months. For banks that had total assets of $250 million or less at the last examination and received a satisfactory rating on their last exam it is 48 months, and for those receiving an out-standing rating it is 60 months. For a bank changing categories, timing for the next exam is based on the bank's status as of the completion of the last exam. The type of examination conducted at the next exam is based on the bank's status at that time.
- **Resources.** Important resources include:
  - FFIEC web site (www.ffiec.com)
  - OCC web site (www.occ.treas.gov), which contains information about the exam procedures and guidelines
  - CRA regulation and preamble
  - Interagency questions and answers
  - Examination procedures (carefully review before your next exam)
  - Your primary regulator

Speaker Biographies

John C. Dugan
Comptroller of the Currency

John C. Dugan was sworn in as the 29th Comptroller of the Currency on August 4, 2005. The Comptroller of the Currency is the administrator of national banks and chief officer of the Office of the Comptroller of the Currency (OCC). The OCC supervises 1,900 federally chartered commercial banks and about 50 federal branches and agencies of foreign banks in the United States, comprising more than half the assets of the commercial banking system. The Comptroller also serves as a director of the Federal Deposit Insurance Corporation, the Federal Financial Institutions Examination Council, and the Neighborhood Reinvestment Corporation. Prior to his appointment as Comptroller, Mr. Dugan was a partner at the law firm of Covington & Burling, where he chaired the firm's Financial Institutions Group. He specialized in banking and financial institution regulation. He also served as outside counsel to the ABA Securities Association. He served at the Department of Treasury from 1989 to 1993 and was appointed assistant secretary for domestic finance in 1992. While at Treasury, Mr. Dugan had extensive responsibility for policy initiatives involving banks and financial institutions, including the savings and loan cleanup, Glass-Steagall and banking reform, and regulation of government-sponsored enterprises. In 1991, he oversaw a comprehensive study of the banking industry that formed the basis for the financial modernization legislation proposed by the administration of the first President Bush.

From 1985 to 1989, Mr. Dugan was minority counsel and minority general counsel for the U.S. Senate Committee on Banking, Housing, and Urban Affairs. There he advised the committee as it debated the Competitive Equality Banking Act of 1987, the Proxmire Financial Modernization Act of 1988, and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Among his professional and volunteer activities before becoming Comptroller, he served as a director of Minbanc, a charitable organization whose mission is to enhance professional and educational opportunities for minorities in the banking industry. He was also a member of the American Bar Association's committee on banking law, the Federal Bar Association's section of financial institutions and the economy, and the District of Columbia Bar Association's section of corporations, finance, and securities laws.

A graduate of the University of Michigan in 1977 with an AB in English literature, Mr. Dugan also earned his JD from Harvard Law School in 1981. Born in Washington, DC in 1955, Mr. Dugan lives in Chevy Chase, Maryland, with his wife, Beth, and his two children, Claire and Jack.

Ann F. Jaedicke
Deputy Comptroller for Compliance Policy, Office of the Comptroller of the Currency

Ann F. Jaedicke has served as deputy comptroller for compliance policy since December, 2003. She is responsible for policy and examination procedures relating to consumer issues, money laundering, and bank secrecy. She also sits on FFIEC's (Federal Financial Institution Examination Council) task force on consumer compliance and FFIEC's Bank Secrecy Act task force. These task forces of U.S. regulators promote policy coordination and the uniform enforcement of laws and regulations. Ms. Jaedicke has been employed by the Office of the Comptroller of the Currency (OCC) as a bank examiner for 28 years. She began her career in 1977 as a bank examiner in Texas.

From 1984-1986, Ms. Jaedicke worked in OCC's London office where she examined branches of U.S. banks. Later she served as the director for OCC's Large Bank Division. At the time, OCC's Large Bank Division supervised 12 of the largest national banks in the U.S. In 1997, Ms. Jaedicke was promoted to deputy comptroller for Supervision Operations where she managed, among other things, OCC's Problem Bank Division and sat on OCC's Enforcement Committee. In 2001 and 2002, Ms. Jaedicke led projects to restructure OCC's six districts and OCC's Washington, DC headquarters.

Ms. Jaedicke is a native Texan and a graduate of Texas A&M University.

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

Michael S. Bylsma is director of the Community and Consumer Law Division at the Office of the Comptroller of the Currency (OCC), Washington, DC. The Division of Community and Consumer Law provides guidance to national banks and OCC examiners on a variety of consumer compliance laws such as the Truth in Lending, Electronic Fund Transfer, Federal Trade Commission (FTC) Act, and Fair Credit Reporting Acts, and on community development and fair lending laws, such as the Community Reinvestment and Equal Credit Opportunity Acts.

Prior to joining OCC in 1994, Mike was a Senior Attorney with the Board of Governors of the Federal Reserve System, where he worked for ten years on consumer and community law issues. Recently, he has been a key participant in the OCC's review of, and response to, predatory lending and payday lending issues. He was a principal author of the OCC's supervisory standards addressing predatory lending practices in loan originations, loan purchases, and brokered loan transactions. He has been the primary OCC staff participant in the interagency review of the Community Reinvestment Act regulations.

Mr. Bylsma has been actively involved in the OCC's efforts to prevent unfair, deceptive, and abusive lending acts or practices through enforcement of the FTC Act. He developed the OCC's supervisory guidance on unfair and deceptive practices under the FTC Act, including several advisory letters on various aspects of this issue. He is coauthor, with OCC Chief Counsel Julie L. Williams, of "On the Same Page: Federal Banking Agency Enforcement of the FTC Act to Address Unfair and Deceptive Practices by Banks," 58 Business Lawyer 1243 (May 2003), and a Spring 2004 Business Lawyer article, also coauthored with Julie L. Williams, entitled "Federal Preemption and Federal Banking Agency Responses to Predatory Lending."

Karen Tucker

National Bank Examiner/Senior Compliance Specialist, Office of the Comptroller of the Currency

Karen Tucker is senior compliance specialist in the Compliance Division in the Office of the Comptroller of the Currency. She has worked in that division since 1995. Ms. Tucker works on policy and procedural issues surrounding the CRA, HMDA, CRA Sunshine, and Section 109 (DPO) rules. She provides guidance to field examiners, bankers, and other interested parties. In addition, she represents the OCC on interagency committees and working groups. Ms. Tucker was a field examiner in the Southeastern and Western districts for 14 years. She joined the OCC in 1981 in Miami, Florida. Ms. Tucker is a former member of the ABA Compliance Advisory Board for the national and graduate compliance schools. She holds a Bachelor of Science degree from the University at Albany and a Master of Business Administration degree from the University of Miami.

Calvin R. Hagins

Director for Compliance Policy, Office of the Comptroller of the Currency

Mr. Hagins became director for Compliance Policy in October 2005. In that position, he serves as OCC's senior manager and plans, organizes, implements, and directs activities associated with identifying risks. He also provides guidance on policy issues affecting the compliance process and consumer policy programs and issues. He reports to and serves as an expert advisor to the deputy comptroller for Compliance Policy and the senior deputy comptroller for Bank Supervision Policy on all community and consumer policy matters. He interprets policies and procedures and represents the OCC externally and internally on community and consumer policy issues.

From March 2003 through September 2005, he served as senior advisor to the deputy comptroller for Compliance Policy. In that position, he served as an expert on the formulation and implementation of a broad range of policies and procedures relating to the efficient and effective supervision of compliance risk. He also advised OCC executive management and examiners throughout the country on complex compliance supervision issues and provided recommendations on a broad range of compliance supervision, operational, and planning matters.

From March 1999 through March 2003, he served as the assistant deputy comptroller (ADC) – Compliance. He provided technical expertise and guidance to the Southeast District's midsize and community banks on all aspects of consumer compliance, CRA, fair lending, and Bank Secrecy Act/Anti-money Laundering activities.

Prior to serving as the ADC - Compliance, he served as an examiner in the Compliance Cadre from 1994 to 1999. During that period, Mr. Hagins was active in developing and instructing in the National Basic Consumer Compliance School, the National Fair Lending School, and the National CRA School.

Mr. Hagins joined the OCC in 1987 and was commissioned a national bank examiner in 1993. He holds a BS in finance from the University of South Florida in Tampa.