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Committee on Financial Services

Subcommittee on Consumer Protection and Financial Institutions

The Community Reinvestment Act: Reviewing Who Wins and Who Loses with Comptroller Otting's Proposal.

January 14, 2020

Good afternoon Chairman Meeks, Ranking Member Luetkemeyer and the Members of the House Subcommittee on Consumer Protection and Financial Institutions. Thank you for the opportunity to testify and for convening this important hearing on the Community Reinvestment Act (CRA) to discuss the winners and the losers in the proposed rulemaking formally published last week by the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) changing the regulatory framework for the law. I am the Director of Policy and Government Affairs of the National Community Reinvestment Coalition (NCRC). NCRC and its more than 600 grassroots member organizations create opportunities for people to build wealth. NCRC members include community reinvestment organizations; community development corporations; local and state government agencies; faith-based institutions; community organizing and civil rights groups; minority and women-owned business associations, as well as local and social service providers from across the nation. We work with community leaders, policymakers and financial institutions to champion fairness and fight discrimination in banking, housing and business.

Comptroller Joseph Otting has really led this CRA regulatory reform process from the very beginning and the agency has lived up to its promise to put forth a "transformational approach" to the CRA regulations for the nation's largest banks. The proposed changes are substantial, dilutive and would weaken the effectiveness of the law. I can say, without equivocation, the winners would be the nation's largest banks and the losers would be low- and moderate-income (LMI) and underserved borrowers and communities, and importantly, the CRA ecosystem that has been built since to support economic opportunity in LMI communities in both urban and rural areas.

While we are certainly at odds with the Comptroller over this notice of proposed rulemaking (NPRM), NCRC has a long history of working with both OCC and FDIC and we recognize that a great deal of time and effort has gone into this reform framework. Nonetheless, we could not agree more with the very apt assessment of FDIC Board Member Martin J. Gruenberg that: "*this is a deeply misconceived proposal*."

I. Introduction

In this testimony, I will summarize concerns on both this rulemaking process as well as the substance of this proposal, but we will provide more in the coming days. Given its complexity, we have focused on what we believe to be the largest and most significant issues. NCRC and our member organizations of CRA practitioners around the country are still adding to our analyses of this proposal – *its new benchmarks, thresholds, definitions, standards, data collection, reporting and disclosure requirements* – as well as how all the pieces would all fit together in a new regulatory schema. And, importantly, how they will impact bank performance standards and CRA ratings.

Today, about 98% of banks pass their CRA exams – a pass rate that suggests higher levels of lending, investment and financial services in low- and moderate-income (LMI) and underserved communities than actually exists.[1] Despite the paucity of underlying data and impact analyses in the proposed rule, CRA grade inflation is unmistakable in the central features of this proposal – a single metric as the dominant determinant of the CRA rating, an expanded list of eligible and qualifying CRA activities diluting the law's effectiveness, and all triggering presumptive CRA ratings that allow banks to garner passing scores at the bank-level even as they have failing CRA scores in nearly half of their local communities/local assessment areas. Importantly, under the framework, banks would appear that they are doing more in the coming years in the dollar volume of CRA activities, but those activities would be less impactful, less targeted to LMI individuals and underserved communities, and with less effective strategies to respond to local credit needs.

CNN Business' *Before the Bell* newsletter reported this weekend, that the largest U.S. banks made more than $120 billion in 2018, an all-time high. And, last year may have been

[1] For example, according to NCRC's review of FFIEC data, in 2019, 7 percent of banks received a CRA rating of Outstanding; 91% received a rating of Satisfactory; 2 percent received a rating of Needs to Improve; 0 received a rating of Substantial Noncompliance. In 2018, 10% received a CRA rating of Outstanding; 89 percent received a rating of Satisfactory; 1 percent received a rating of Needs to Improve; 0 received a rating of Substantial Noncompliance. See also NCRC's Grade Inflation Infographic: *How Well are Regulators Evaluating Banks Under the Community Reinvestment Act?*

even better. CRA standards for lending, investing and serving LMI and underserved communities should be strengthened and not weakened, plain and simple.

II. CRA: The Law's Origins & Purposes

A. A response to actual redlining and on-going discrimination

The CRA was one of several landmark pieces of legislation enacted in the wake of the civil rights movement intended to address inequities in the credit markets. By passing the CRA, Congress aimed to reverse disinvestment associated with years of government policies and lending discrimination that deprived lower-income areas and communities of color of credit by redlining —using red-inked lines to separate neighborhoods deemed too risky.[2] The 1977 Congressional hearings leading to the enactment of the CRA documented conditions of redlining and unequal access to lending in the 1970s, but the phenomenon of redlining extended decades prior to the 1930s. The federal Home Owner's Loan Corporation (HOLC) drew maps of city neighborhoods and differentiated them according to risk as perceived by industry professionals working for the federal government. The highest risk and "hazardous" neighborhoods were overwhelmingly minority and lower income. With federal government approval, these neighborhoods were then systematically redlined by lending institutions for decades. In a recent report, NCRC found that the neighborhoods classified as "hazardous" have remained predominantly minority and lower income.[3]

According to one study of redlining in 51 American cities, 86% of African Americans lived in a neighborhood marked for credit redlining in 1940, despite making up just 8%of the study's

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[2] See Richard Rothstein, *The Color of Law: The Forgotten History of How Our Government Segregated America* (New York: W.W. Norton & Company, 2017). See "Mapping Inequality: Redlining in New Deal America" (2016), for a compilation of the maps and notes created by the federal Home Owners' Loan Corporation in the 1930s that designated areas considered too risky for mortgage lending and were used to determine eligibility for Federal Housing Administration guarantees.

[3] Bruce Mitchell, PhD. and Juan Franco, March 2018, HOLC "Redlining" Maps: The Persistent Structure of Segregation and Economic Inequality, NCRC, March 2018, https://ncrc.org/holc/

population.[4] By contrast, only 35% of whites lived in redlined areas in 1940 despite making up over 90% of the sample population. Today, once-redlined neighborhoods continue to lag behind non-redlined areas on key economic indicators, such as homeownership rates and house values. Causal studies of the effects of HOLC redlining are few, but the literature is growing, finding: redlining maps increased racial segregation, while depressing homeownership, house values, and rents;[5] redlining maps had significant and persistent negative effects on new construction and population density.[6] Both of these studies do find, however, that the negative effects of redlining—particularly with respect to lower homeownership rates and higher levels of racial segregation—have become more muted since 1980. This is consistent with the effectiveness of the CRA as anti-redlining legislation and raises the broader question as to why and how the CRA has been effective.

B. A response to market failures

In economic terms, the CRA can also be seen as a response to what are known as "market failures", including negative and informational externalities associated with a lack of lending and investment in LMI,[7] underserved communities and communities of color. For example, if lenders fear that other lenders will not lend to areas that are perceived to be risky whether they are or not, other lenders will withhold lending due to this fear, resulting in "self-fulfilling prophecy redlining." The inability to borrow to buy and improve homes consigns neighborhoods to continuing disinvestment. The absence of home sales makes neighborhoods

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[4] Krimmel, Jacob and Wachter, Susan, The Future of the Community Reinvestment Act, PENN IUR Brief, (September 2019); Krimmel, Jacob. "Persistence of Prejudice: Estimating the Long Term Effects of Redlining." Working Paper, University of Pennsylvania, 2018.

[5] Aaronson, D., Hartley, D. A., & Mazumder, B. The Effects of the 1930s HOLC "Redlining" Maps. Chicago Fed Working Paper (2017).

[6] Krimmel, at footnote 4.

[7] Robert E. Litan, Nicolas P. Retsinas, Eric S. Belsky, Susan White Haag, The Community Reinvestment Act After Financial Modernization: A Baseline Report, U.S. Treasury Dept., April 2000 (see p. 46, Economic Rationales); also, Ling, David C. and Susan M. Wachter. "Information Externalities in Home Mortgage Underwriting," 44 Journal of Urban Economics (1998): 317-332 (provides evidence of information externalities in neighborhood decline). Guttentag, Jack M. and Susan M. Wachter. "Redlining and Public Policy." Salomon Brothers Center for the Study of Financial Institutions Monograph Series in Finance and Economics, eds. Edwin Elton and Martin J. Gruber (New York University Graduate School of Business, 1980), 1-50.

riskier because appraisers rely on sales to provide information on the value of homes in order to determine appropriate loan amounts. Information externalities and asymmetries can result in delays, caution about perceived risk, and banks charging higher interest rates. Lender expectations of this sort can cause a potentially viable market to suffocate from lack of credit. In the process, borrowers who may otherwise be credit-worthy will be denied credit because of the absence of entry by competitive lenders.

The CRA can be understood as a vehicle for facilitating coordination and for assuring banks that they will not be the lone participants in thinly-traded markets.[8] The Act and its regulations have produced positive information externalities that allow all lenders – both those covered by the CRA and those not covered by the CRA – to better assess and price for risk. By conferring an affirmative and continuing obligation on banks to help meet the credit needs in all of the neighborhoods they serve, the CRA has not only prompted banks to be more active lenders in LMI areas, but also important participants in multisector efforts to revitalize communities across the country.

C. CRA at the heart of a vibrant ecosystem

Due to the CRA's statutory design and the existing regulatory framework, banks have made good strides in LMI markets and communities of color.[9] They have taken numerous steps,

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[8] Ibid.

[9]A sample of research about the CRA and its effectiveness. Lei Ding and Leonard Nakamura*, Don't Know What You Got Till It's Gone: The Effects of the Community Reinvestment Act (CRA) on Mortgage Lending in the Philadelphia Market*, Working Paper No. 17-15, June 19, 2017, https://www.philadelphiafed.org/-/media/research-and-data/publications/working-papers/2017/wp17-15.pdf; Lei Ding, Raphael Bostic, and Hyojung Lee, Effects of CRA on Small Business Lending, Federal Reserve Bank of Philadelphia, WP 18-27, December 2018, https://www.philadelphiafed.org/-/media/research-and-data/publications/working-papers/2018/wp18-27.pdf; Governor Randall S. Kroszner, *The CRA and Recent Mortgage Crisis*, speech delivered at the Confronting Concentrated Poverty Forum, Board of Governors of the Federal Reserve System, December 2008, https://www.federalreserve.gov/newsevents/speech/kroszner20081203a.htm; Is the CRA Still Relevant to Mortgage Lending? | Paul Calem, Lauren Lambie-Hanson, and Susan Wachter; Quantitative Performance Metrics for CRA: How Much "Reinvestment" is Enough? | Carolina Reid; The Community Reinvestment Act and Bank Branching Patterns | Lei Ding and Carolina Reid; NCRC, *Access to Capital and Credit in Appalachia and the Impact of the Financial Crisis and Recession on Commercial Lending and Finance in the Region*, prepared for the Appalachian Regional Commission, July 2013, https://ncrc.org/wp-content/uploads/2013/11/accesstocapitalandcreditInappalachia.pdf

including establishing loan products geared towards LMI borrowers, entering loan pooling arrangements, undertaking lending consortiums, partnering with local groups, community development corporations and community development financial institutions (CDFIs) to break down the barriers that impede the efficient flow of capital into LMI communities. One accounting and tax advisory firm estimated that the banking sector was the source of 85% of the $10 billion in capital committed to housing tax credit investments in 2012.[10] When bank investors were surveyed about why they were so attracted to housing tax credit investments, they said the principal motivation were their obligations under the CRA investment test. The OCC and FDIC's proposed general performance standards for the nation's largest banks undermine these important benefits of the law –- the incentive for banks to develop partnerships with local community organizations and other stakeholders to address community needs - because the banks can satisfy their CRA obligations by simply hitting the metric. And, they could hit the metric with an expanded list of eligible and qualifying activities.

III. **The OCC and FDIC's Proposed Rule** – *On the Process*

A. A patently unfair 60-day comment period

At the outset, we believe there have been critical missteps in the rulemaking process, including the 60-day length of the public comment period. The agencies must extend it. The OCC and FDIC should heed Chairwoman Maxine Brown and Ranking Member Sherrod Brown and the Members of this Committee and Senate Banking calling for and extension of the

[10] *The Community Reinvestment Act and Its Effect on Housing Tax Credit Pricing*, CohnReznick Report.

comment period. The 240-page proposal is dense, complex and has many interlocking pieces – in terms of how all the new benchmarks, thresholds and definitions fit together. Neither the 60-day timeframe nor the information provided in the notice of proposed rulemaking (NPRM) offer a meaningful opportunity to comment.

The NPRM is a fundamental rewrite of the CRA regulatory framework. An entire retail lending, community development and affordable housing infrastructure for low- and moderate-income individuals and communities is built around and reliant upon it working. On last Friday, the OCC released a request for information (RFI) related to deposit and other bank data limitations acknowledged by the agencies in the NPRM. That comment period closes one day after that of the NPR. As described above, the CRA ecosystem is vast. It has benefited LMI and minority home buyers, small farms, credit starved sole-proprietors, small- and minority-owned and women-owned businesses in low- and moderate-income communities and the incubators and cooperatives that provide technical and other assistance to them, housing tax credit investors and syndicators, non-profit and mission affordable single-family and multifamily housing developers, state and local housing finance agencies, community and economic development corporations, CDFIs and Indian country to name a few. The existing CRA regulatory structure which examines the nation's largest banks under a retail lending test, investment test and service test.[11] The stakeholder community is vast, the proposal is multi-layered and connected with other public and private programs and incentives and multisector efforts. A 60-day comment period is simply unfair to the community of stakeholders that are tasked with understanding the various aspects of the proposal and how it would impact their work and their communities. The proposal cannot be understood, digested and analyzed in 60 days, plain and simple.

B. *Missing data, analysis referenced in the proposed rule and impact on bank ratings of the various new empirical benchmarks and thresholds*

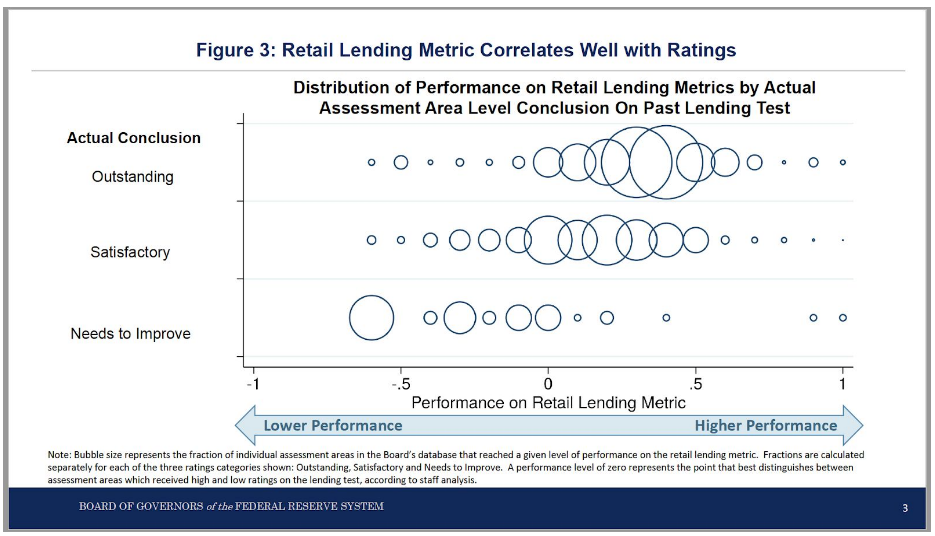
Commenting on the proposal in the 60-day window is further hampered by the lack of data and impact analysis in the proposal. While the agencies have provided an illustrative list of

[11] See A Banker's Quick Reference Guide to CRA (see also attached)

bank activities that qualify and they have provided some cursory descriptions of their methods, they have provided very little of the underlying data or referenced analyses supporting their various empirical benchmarks and thresholds and virtually no impact analysis.

1. The Federal Reserve's data and analysis

The contrast is best illustrated by some of the charts and graphs provided last week by Federal Reserve Governor Lael Brainard at the Urban Institute[12] in describing that agency's approach of creating multiple metrics that would be more familiar to the organizations that are in the CRA space based on public data sources. The agency built a CRA database based on 6,000 written public CRA performance evaluations since 2005 from a sample of 3,700 banks of varying asset sizes, business models, geographic areas and bank regulators. It also spans economic cycles. Based on that database, Governor Brainard was able to illustrate how their proposed retail lending metrics, for example, correlate well with past ratings of bank performance.



The specific thresholds that would establish a presumption of satisfactory performance could be informed, Governor Brainard said, by current evaluation procedures but need not be set at the same level as today. Proposed metrics with the kinds of outcomes the law mandates combined with the data and underlying analyses would allow the public to understand what metrics would replicate past CRA ratings and examiner expectations. The public could then

[12] *Strengthening the Community Reinvestment Act by Staying True to Its Core Purpose*, Governor Lael Brainard, January 8, 2020.

have an informed discussion and provide public comment about how those metrics could be adjusted to reflect the law, goals and priorities going forward. It is a better starting point for an informed discussion about how proposed metrics in terms of transparency, clarity and impact and a basis for meaningful public comment.

2. The OCC's methods

The OCC relied on a sample of over 200 CRA performance evaluations completed since 2011 for banks above the small bank asset threshold of $1.284 billion in 2019. They analyzed Home Mortgage Disclosure Act (HMDA) data, Call Report data and credit bureau data, information about community development investments and made some assumptions to estimate what banks' average CRA evaluation measures would have been from 2011 – 2017. Based on their analyses, they developed "empirical' benchmarks and various threshold levels of bank activities that would correspond with an Outstanding CRA rating (11%), Satisfactory (6%) and Needs to Improve (3%); set a 2% community development minimum at the local assessment area and bank-level; included a .01 credit for bank branches located in LMI and other underserved areas; set new retail lending test demographic or peer comparators at 55% and 65%, respectively, that the bank either meet, exceed or fail; new deposit-based assessment area requirements for banks that collect more than 50% of their deposits outside their branch network, in markets where they collect 5%.

The ability to provide informed comment on the proposal is frustrated by a lack of the agencies' referenced analyses around the empirical benchmarks and other thresholds or a distributional analysis of the impact on bank ratings. They all appear to be arbitrary. For example, based on the agencies' review of historical data, does a 2% community development minimum correlate well with CRA ratings today? Based on historical data, what do the agencies know about the distribution of banks above, below and around a 2% minimum today? What do the agencies know or estimate about how much essential infrastructure, for example, banks are financing today that would qualify towards that minimum that does not today? Do the retail lending metrics correlate well with today's CRA ratings? What do the agencies know or estimate about how many more bank assessment areas would be designated under the new deposit-based thresholds?[13]

Quite frankly, the agencies have failed to "show their work" and without having a better understanding or at least the agencies referenced analyses, the agencies estimates about how these benchmarks and thresholds compare with past ratings as well as distributions across the various scoring ranges, the public cannot provide informed input about the general performance standards, where these various markers should be set to reflect the laws, mandates and Congressional objectives as well as larger public policy and societal goals. The ability to meaningfully comment is truly frustrated.

C. The agencies must complete the data RFI first

On Friday, the OCC also released a RFI on the data that will supplement their historical data and assumptions related to retail domestic deposit activities, CRA qualifying activities and various retail loan data, including those originated and sold in 90 days. How the agency will supplement the existing historical data and assumptions is a critical piece that will inform bank capacity as measured by the base/the denominator of the OCC's single metric – the CRA evaluation measure, the designation of new deposit-based assessment areas and well as other benchmarks, thresholds, information collection, reporting and disclosure requirements underlying these new small bank and general performance CRA standards. It would also inform how the regulators propose to verify a bank's sample data used to determine compliance with the presumptive CRA ratings. It must be completed and a final rule published before the public comment period for the NPRM closes. Without knowing and understanding critical data and verification pieces around bank capacity and existing and new assessment areas, as just two examples, the ability to provide informed and meaningful comment would be frustrated for the hundreds of CRA practitioners we represent.

IV. **The Proposed Rule** – *On the substance*

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[13]For example, the OCC's regulatory impact analyses says in relation to the small banks that "we believe that seven banks currently designated as wholesale or limited purpose banks may have increased data classification requirements."

Attached is a powerpoint which reflects what the OCC and FDIC are proposing and some of our concerns. This is a brief summary of some of our concerns, as well:

CRA Evaluation Measure – *an overly determinative single metric; rationing of CRA credit*
The CRA evaluation measure that would apply to all of the nation's largest banks and small banks that opt into the new general performance standards relies on a numerator inflated by an expanded list of CRA qualifying activities and a denominator of retail domestic deposits that is data limited and finite. Particularly in the case of community development activities, a rationing of CRA credit would occur as large and easy projects across the nation become the enemy of smaller, more complex but impactful local projects.

Presumptive CRA Ratings - *arbitrary benchmarks; missing agency impact analysis; undermines the economic rationales for CRA*

The proposed presumptive CRA ratings for Outstanding, Satisfactory and Needs to Improve appear to be arbitrary. The agencies have provided a cursory overview of data sources and assumptions they used to arrive at these empirical benchmarks, but they have failed to provide what they know about how banks would perform under them. *Are more banks estimated to achieve Outstanding CRA ratings under these benchmarks than today, for example*? The presumptive ratings, within this overall single metric framework, undermine what CRA has done very well: encourage the various kinds of community partnerships and loan pooling arrangements that help overcome the various market failures, negative and informational externalities that can be major roadblocks to attracting bank investment in low-income, distressed and underserved communities.

Expansion of CRA Qualifying Activities – *extends CRA credit to bank activities done in the ordinary course of business; upends exam incentives that keep LMI considerations at the heart of the law.*

The proposal broadens categories of CRA credit, including infrastructure and community facilities and volunteer activities by bank employees, for which banks are now proposed to get partial CRA credit all across the country. Banks would no longer have to have a “primary purpose” of community development targeted on LMI individuals and areas, small businesses or small farms, or underserved distressed rural areas. Even more of the smallest businesses and farms, for example, will be frustrated in their efforts to get bank credit and smaller dollar credit since key dollar loan size and gross annual revenue thresholds would be doubled and more for farms.

Facility-Based and New Deposit-Based Assessment Areas (AAs) - *serious deposit data limitations; arbitrary deposit-based thresholds; no estimates of how many credit deserts would be served.*

Though updates are certainly needed for internet and online banking, the regulators acknowledge the inadequacy of today’s deposit data to designate new areas or to develop a CRA evaluation measure based on local deposits. The regulators also assume that the thresholds they are proposing for when banks designate deposit-based AAs will encompass banking deserts, but they don’t explain why they assume it. The general CRA performance standards will also mean the nation’s largest banks will get a lot more credit for bank activities outside of AAs without any certainty they are qualitatively meeting local credit needs before then racking up a lot of partial credit around the nation for projects that really don’t need a CRA credit to get done.

Retail Lending Distribution Test – *arbitrary demographic and peer thresholds***;** *weaker incentive for banks to provide homeownership opportunities, small business and small farm loans to LMI borrowers and areas.*

The agencies do not provide estimated pass rates for how banks would perform under their lending distribution benchmarks when compared to either the local demographics or the bank’s peers. *It could set a low "pass" bar in those instances where the LMI population is high, but peer lending is low.* The pass-fail retail lending test also does not consider the quality of the lending (e.g. high-cost consumer loans; how many small dollar mortgages are being made) and drops all place-based review of home mortgages in LMI neighborhoods. The retail lending test is weakened on the exam – it would have far less weight and banks could fail in half of their local AAs and still achieve a bank-level passing CRA grade. National policy efforts and the role of the nation's banks in closing homeownership gaps and related racial and other wealth gaps get harder.

The Service Test – *proposal virtually eliminates it; minimal recognition of bank branches in LMI areas; no consideration of affordable financial services and products.*

The proposal has expanded CRA credit for general volunteer work of bank employees, including for financial literacy regardless of income, but eliminates consideration of bank's efforts to provide affordable products, low-cost transaction and savings accounts and services intended to expand access to the banking system to low- and moderate-income individuals who are currently unbanked. Importantly, the percentage point credit for the number of bank branches in LMI and other underserved areas is not enough of an incentive and there would be no review of banks openings and closings.

V. **Conclusion**

Thank you for the opportunity to testify on the CRA. The OCC's and FDIC's proposal is deeply flawed. We urge the Members of this Committee to join us in opposing this framework and facilitating interagency coordination by all three of the prudential regulators around a common but far better approach that will clarify but strengthen the CRA's regulatory framework for LMI people, underserved communities and communities of color.

Attachments:

1. NCRC powerpoint slides of the OCC/FDIC proposal and topline concerns
2. NCRC examples of absurd CRA qualifying activities in the NPRM
3. A Step-by-Step Summary of the OCC's Proposed Ratings Mechanics (Covington)
4. The Banker's Quick Reference Guide to CRA (today's exam for large banks)

CRA Evaluation Measure - "*Single Metric*" *framework* - §25.10

"It is a "count the widgets" approach that does not take into account the quality and character of the bank's activities and its responsiveness to local needs."

- Former FDIC Chair Marty Gruenberg

The OCC/FDIC Proposal

$$\frac{\textit{Qualifying Activities Value}}{\textit{Average quarterly}\ \textbf{Retail Domestic Deposits}} + .01\left(\frac{\textit{Branches in Specified Areas}}{\textit{Total Branches}}\right)$$

- Applies to the nation's largest banks
- CRA investment test eliminated
- Expanded list of CD activities are CRA qualifying (e.g. infrastructure projects that partially benefit LMI)
- Double credit for most CD investments (exc.MBS and muni bonds); AH CD loans; support for CDFIs

Concerns

Concerns

- Dollar volume is too determinative
- Favors large and easy deals over complex/innovative ones
- Favors quantity of bank activities over quality/impact
- Bank branches and affordable banking services given short shrift
- e.g. fewer financing options for smaller nonprofits to build and preserve deep affordable housing
- e.g. fewer small retail loans - small mortgages, small business and small farm loans

Presumptive CRA ratings - § 25.12

"These presumptive standards undermine one of the most important benefits of CRA - the incentive for banks to develop partnerships with local community organizations and other stakeholders to address community needs - because the banks can satisfy their CRA obligations by simply hitting the metric.."

OCC/FDIC Proposal

- Dollar volume results in new "presumptive rating"
  - 11% and up = *Outstanding*
  - 6% = *Satisfactory*
  - 3% = *Needs to Improve*
  - Less than 3% = *substantial noncompliance*
- CRA Ratings at <u>both</u> the assessment area and bank level
- Other performance standards
  - e.g. 2% CD minimum
  - e.g. retail lending test (pass/fail)

Concerns

- Banks could fail the exam in nearly half of their local communities and still pass
- Discourages what CRA has done best – *encourage community partnerships*
- Rations CRA – *the perfect becomes the enemy of the good*
- "empirical benchmarks" appear arbitrary; impact unknown

CRA Qualifying – *expanded activities/areas* - *§25.04*

"expands eligible and qualifying CRA activities to include some of what banks already do in the ordinary course of business, thereby diluting the effectiveness of CRA."

OCC/FDIC Proposal

- Agencies to publish non-exhaustive list of examples of qualifying activities
- Community development expanded, including
  - essential infrastructure
  - OZ funds (e.g. stadium repair)
  - financial literacy for all
  - RH that "partially or primarily benefit" middle income in high cost areas

Concerns

- More and not less CRA grade inflation – *weakening*
- More activities; less LMI focus and impact
- *e.g. Will double affordable housing/CD credit mean easier middle-income projects over harder low-income projects?*

CRA Qualifying – definitions - §§ 25.04, 25.03

”CD loans, investments, and services would no longer have to have a <u>primary</u> purpose of CD targeted on LMI individuals and areas, small business or small farms, or underserved or distressed rural areas.”

OCC/FDIC proposal

- Gone: “primary purpose” of CD test targeted at LMI+
- New: “partially or primarily” benefit/serve LMI standard
- More “pro-rata" credit for the dollar values that partially benefits LMI
- Expands qualifying middle-income tracts

Concerns

- Undermines CRA’s historic focus on LMI
- Banks appear to do more in dollar volume, but less impactful activities
- CRA grade inflation
- Unclear impact

Retail Lending Distribution Test - § 25.11

(*depending on the bank's retail products)*

OCC/FDIC Proposal

- Borrower distribution test
  - for mortgages, small business/small farms, consumer loans
- Geographic distribution test
  - for small small business/small farms, consumer loans
- New higher small biz/small farm limits:
  - \$2 mill. dollar loan limit
  - \$2 mill. annual revenue limit
- Local AA: meet or exceed
  - 55% of LMI demographic percentage
  - 65% of peer loans percentage

Concerns

- Can fail in half of local AAs & still pass at the bank-level
- Low pass/fail standard -either demographic *or* peer comparator, not both
- Arbitrary thresholds
- No review of mortgage lending in LMI neighborhoods
- No incentive for small loans to home buyers, small business, small farms
- e.g. could pass with mainly high cost consumer lending

Assessment Areas (AAs) - §25.08

"…we do not know how many or where these deposit- based assessment areas might be, or how they would benefit low-and moderate-income communities. It is not clear that communities that are so-called "credit deserts" would necessarily benefit from the five percent threshold ."

OCC/FDIC Proposal

- Facility-based AAs – same as today
- New deposit-based AAs –if 50% of deposits outside branches, then where they receive 5%
- CRA credit in AAs and more *outside AAs credit* at the bank-level
- Strategic Plans rules revised & required for some

Concerns

- Favors easy retail and CD activities around the country over local credit needs
- Deposit data is limited -*how many new AAs? Where? In credit deserts? Rural areas?*
- Arbitrary deposit-based AA thresholds

The OCC's General CRA Performance Standards – *from the proposed rule*

CRA evaluation	Retail lending distribution tests	CD minimums	Presumptive rating category
The average of a bank's annual assessment area CRA evaluation measures meets or exceeds 11 percent (selected from a range of 10 to 15 percent).	A bank meets the established thresholds for all the retail lending distribution tests for its major retail lending product lines in that assessment area.	The quantified value of community development loans and community development investments in the assessment area, *divided by* the average of the bank's assessment area retail domestic deposits must meet or exceed 2 percent.	Outstanding.
The average of a bank's annual assessment area CRA evaluation measures meets or exceeds 6 percent (selected from a range of 5 to 10 percent).	A bank meets the established thresholds for all the retail lending distribution tests for its major retail lending product lines in that assessment area.	The quantified value of community development loans and community development investments in the assessment area, *divided by* the average of the bank's assessment area retail domestic deposits must meet or exceed 2 percent.	Satisfactory.
The average of a bank's annual assessment area CRA evaluation measures meets or exceeds 3 percent (selected from a range of 2 to 5 percent).			Needs Improvement.
The average of a bank's annual assessment area CRA evaluation measures is less than 3 percent (selected from a range of 0 to 5 percent).			Substantial Non-compliance.

Proposed General Bank Performance Standards - > $500 million is bank assets

Absurd Examples of CRA Qualifiying Activities Thanks to the NPRM

Family Farm

An illustrative example of a of CRA qualifying activities under proposed §§ 25.04(c)(7)(i) and 345.04(c)(7)(i) is a loan to a family farm with gross annual revenues of $10 million.[1] According to the U.S. Department of Agriculture, only 1% of farms had sales of $5 million or more. About 76% of farms had sales of $50,000 or less.[2] This change in CRA qualifying activities would divert lending away from the smallest farms.

Stadiums in Opportunity Zones

The NPRMwould allow financing of improvements to athletic stadiums in low-income census tracts located in Opportunity Zones.[3] Recently, the City of Jacksonville borrowed $45 million to pay for upgrades, a new outdoor amphitheater and indoor practice facility, next to the stadium in which the Jacksonville Jaguars play.[4]

One of the two largest banks in terms of deposit market share in Jacksonville had community development lending ($15 million) that was of a lower dollar amount than the loan for the stadium. The community development lending of this bank supported 72 units of affordable housing and economic development.[5] If financing for stadiums is allowed, banks would have an incentive to eliminate important community development lending directly benefiting LMI households and neighborhoods.

Another bank, which is also one of the two largest banks in terms of deposit market share, made $21 million in community development lending that supported over 200 units of affordable housing.[6] Again, would this bank continue to do this if large scale financing and other infrastructure is promoted by a new CRA rule.

Small Business

The agencies proposed to revise the definition of a small business as one with revenues of up to $2 million and annually adjusted for inflation, which would be an increase from the $1 million limit currently.[7] The CFPB estimated that 95% of small businesses had revenues of $1 million or less.[8] The agencies' change in the small business revenue size that qualifies a loan as CRA-eligible would divert CRA-qualified lending away from the smallest businesses.

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[1] NPRM, p. 97, §§ 25.04(c)(7) and 345.04(c)(7)

[2] https://www.nass.usda.gov/Publications/Highlights/2019/2017Census_Farm_Economics.pdf

[3] NPRM, p. 100. §§25.04(c)(11) and 345.04(c)(11)

[4] https://www.jacksonville.com/news/metro/2015-12-08/story/city-council-unanimously-approves-90-million-improvement-everbank-field

[5] https://www.occ.gov/static/cra/craeval/oct19/13044.pdf

[6] https://www.occ.gov/static/cra/craeval/oct19/715115.pdf

[7] NPRM, p. 26, §§ 25.03 and 345.03

[8] Consumer Financial Protection Bureau (CFPB), *Key Dimensions of the Small Business Lending Landscape*, p. 10, May 2017, https://www.consumerfinance.gov/data-research/research-reports/key-dimensions-small-business-lending-landscape/

Middle- and Upper-Income Housing

The NPRM could facilitate mixed income housing as defined by middle- and upper-income housing. Current CRA guidelines provide partial CRA credit to mixed income housing that is low-income and middle/upper income, but the credit is *"based on the percentage of units set-aside for affordable housing for low- or moderate- income individuals*."[1] The NPRM proposes to also provide CRA credit for the portion of units set aside for those that are middle income in high cost areas. As one example, §§ 25.04(c)(1)(i)(D) and 345.04(c)(1)(i)(D) of NPRM defines affordable housing as rental housing "that partially or primarily benefits middle-income individuals or families in high-cost areas as demonstrated by an affordable housing set-aside required by a federal, state, local, or tribal government."[2] Affordable housing for low-income households is far more difficult to finance and, if these provisions are implemented, it could make up a shrinking share of the affordable rental housing promoted by CRA.

Financial Education for All Incomes

The NPRM would allow banks to offer financial education to people of all income levels.[9] Currently, this community development service is targeted to low- and moderate-income people. Thus under the NPRM, banks could offer financial education to the Comptroller of the Currency and the Chairman of the FDIC and receive CRA credit. The provision of financial education must be consistent with the statutory purpose of CRA, that is, combating redlining and increasing access to credit and banking services to low- and moderate-income populations and neighborhoods.

The Dominant Single Metric and Three Large Credit Card Lenders

The CRA evaluation measure would likely be ineffective in stimulating increases in community development financing by large credit card lenders. We did a back-of-the-envelope calculation. NCRC approximated the CRA evaluation measure of three large credit card lenders. We made a conservative estimate of credit card lending to LMI borrowers (no data on this lending is publicly available). Even with a conservative estimate of credit card lending to LMI borrowers, the three large credit card lenders had ratios with just qualified credit card lending in the numerator that already exceeded the benchmark of 11% needed for an Outstanding rating.

In addition, one of the three large lenders had an overall community development minimum that today exceeds 2% of deposits. In other words, this large lender likely would not have to increase its community development financing in order to keep receiving Outstanding ratings. For this lender, stagnant performance would earn it Outstanding. The other two lenders would have to increase their community development financing but once they hit the 2% minimum required ratio, their performance would stagnate. The proposal would be likely to lead to lackluster CRA performance (that does not continually and affirmatively respond to needs) in the long term for these three large lenders.

[9] NRPM, p. 28, §§ 25.04(c)(9) and 345.04(c)(9)

Appendix A: Step-by-Step Summary of Proposed Ratings Mechanics

Step 1: Designation of Assessment Area(s)

The scope of a bank's assessment area(s) is determined through two tests:

<u>Facility-Based Assessment Area</u>: Every bank must delineate an assessment area encompassing each location where it maintains its main office, a branch, or a non-branch deposit-taking facility, as well as the surrounding locations in which the bank has originated or purchased a substantial portion of its qualifying retail loans.

<u>Deposit-Based Assessment Area</u>: A bank that receives 50 percent or more of its retail domestic deposits from outside of its facility-based assessment area must delineate separate, non-overlapping assessment areas in the smallest geographic area where it receives 5 percent or more of its retail domestic deposits.

Step 2: Determination of Assessment Area-Level Presumptive Rating

The bank's presumptive assessment area-level rating is determined by its CRA Evaluation Measure, and a Satisfactory or better rating also requires passing the Retail Lending Distribution Measure and satisfying the CD Minimum.

<u>CRA Evaluation Measure</u>: The bank's assessment area-level CRA Evaluation Measure is the sum of: (1) the dollar value of qualifying activities, divided by the average quarterly value of the bank's assessment area retail domestic deposits; and (2) the percentage of branches in the assessment area that are located in LMI census tracts, multiplied by 0.01. The value of certain CD activities is multiplied by two for the purposes of this measure. This measure must meet or exceed 11 percent for an Outstanding rating, 6 percent for a Satisfactory rating, and 3 percent for a Needs to Improve rating in the assessment area.

<u>Retail Lending Distribution Measure</u>: The bank must (1) pass a borrower distribution test for each major retail lending product line for which a bank has originated 20 or more loans in the assessment area during the evaluation period, and (2) when making small loans to businesses or farms is a major retail lending product line and the bank has originated 20 or more such loans in the assessment area during the evaluation period, pass the geographic distribution test for such loans. These tests measure the number of loans that the bank has made, rather than the dollar value of those loans.

- Under the <u>borrower distribution test</u>, the percentage of the bank's loans in a given category in the assessment area that the bank has made to LMI individuals, small businesses, or small farms (as applicable) must exceed either (a) 55 percent of the percentage of individuals in the assessment area who are LMI, or percentage of businesses or farms in the assessment area that are small businesses or small farms (as applicable), or (b) 65 percent of the percentage of peer banks' loans in the category in the assessment area that peer banks have made to LMI individuals, small businesses, or small farms (as applicable).
- Under the <u>geographic distribution test</u>, the percentage of the bank's small loans to businesses or farms in the assessment area that the bank has made in LMI census tracts must meet or exceed either (a) 55 percent of the percentage of businesses or farms in the assessment area that are in LMI census tracts, or (b) 65 percent of the percentage of peer banks' loans to businesses or farms in the assessment area that peer banks have made in LMI census tracts.

<u>CD Minimum</u>: The value of the bank's CD loans and investments in the assessment area divided by the average quarterly value of the bank's assessment area retail domestic deposits must meet or exceed 2 percent.

Step 3: Determination of Bank-Level Presumptive Rating

The bank's presumptive bank-level rating is determined by its bank-level CRA Evaluation Measure and its assessment area ratings, and a Satisfactory or better bank-level rating also requires satisfying the bank-level CD Minimum.

<u>CRA Evaluation Measure</u>: The CRA Evaluation Measure described in Step 2 is also used to evaluate the bank's total qualifying activities both within *and* outside of its assessment areas to calculate the bank-level CRA Evaluation Measure. The average of the annual bank-level CRA Evaluation Measures during the evaluation period must meet or exceed 11 percent for an Outstanding rating, 6 percent for a Satisfactory rating, and 3 percent for a Needs to Improve rating.

<u>Assessment Area Ratings</u>: The bank must receive a given rating in a "significant portion" of its assessment areas (which the preamble suggests is 50 percent or more) to receive that same rating at the bank level.

<u>CD Minimum</u>: The value of the bank's total CD loans and investments (both within *and* outside its assessment areas) divided by the average quarterly value of the bank's retail domestic deposits must meet or exceed 2 percent.

Step 4: Application of Performance Context Factors

The bank's primary federal regulator may adjust its presumptive assessment area-level and bank-level ratings based on a series of performance context factors. These factors include the bank's explanation of its product offerings, business strategy, financial constraints, economic factors, and assessment area needs.

Evidence that the bank has engaged in discriminatory or other illegal credit practices may also provide grounds for a downward ratings adjustment.

Federal Reserve Bank of Dallas

A Banker's Quick Reference Guide to CRA

As amended effective September 1, 2005

This publication is a guide to the CRA regulation and examination procedures.
It is intended for bank CEOs, presidents, and CRA and compliance officers
as a tool for accessing CRA information quickly. Refer to Regulation BB and agency examination
procedures for more detailed information.

Large Banks – Lending Test

Performance Standards

Number and amount of loans in the AA

Geographic distribution of loans
- proportion of loans in AA
- dispersion of lending in AA
- number and amount of loans by geography classification (low-, moderate-, middle- and upper-income) in AA

Distribution based on borrower characteristics
- number and amount of home mortgage loans to low-, moderate-, middle- and upper-income individuals
- number and amount of small business and small farm loans by loan amount at origination and to small businesses and small farms with gross annual revenues of $1 million or less
- (optional) number and amount of consumer loans to low-, moderate-, middle- and upper-income individuals

CD loans
- number and amount
- complexity and innovativeness

Innovative or flexible lending practices to address the needs of LMI individuals or geographies

(Optional) Affiliate lending, if not claimed by any other institution, and lending by a consortium or third party will be considered.

Examiner Review

Identify loans to be evaluated by reviewing
- most recent HMDA and CRA disclosure statements.
- interim HMDA and CRA data collected.
- sample of consumer loans (if a substantial majority of business).
- other loan information provided by the bank.

Verify accuracy of loan data collected and/or reported.
- Affiliate loans may be claimed by only one affiliate.
- CD loans meet definition.
- The amount of third party, consortia or affiliate lending may not account for more than the percentage share of the bank's participation or investment.
- If reported, consumer loans must include all loans in a particular category (e.g., motor vehicle).

Evaluate lending volume both in number and dollar amount of loans within the AA for each type of loan, giving consideration to the performance context.

Analyze the geographic distribution of lending.
- Review information provided by the bank for insight into the reasonableness of its geographic distribution.
- Perform independent analysis as necessary. The analysis should consider:
  - number, dollar volume and percentage of loans made:
    - inside and outside AA.
    - in each geography and each income category of geography.
  - number of geographies penetrated in each income category.
  - number and dollar volume of housing loans in each geography compared with the number of housing units in each geography.
  - number and dollar volume of small business or farm loans in each geography compared with the number of small businesses or farms in each geography.
  - whether any gaps exist in lending activity for each income category, by identifying groups of contiguous geographies that have no or low loan penetration relative to the other geographies.
- If contiguous geographies have abnormally low penetration, the examiner may compare the bank's performance with that of other area lenders. Note: Banks are not required to lend in every geography.

Analyze distribution of lending by borrower characteristics.
- Review information provided by the bank for insight into the reasonableness of its lending distribution.
- Supplement with independent analysis of lending distribution by borrower characteristics as necessary and applicable, giving consideration to the:
  - number, dollar volume and percentage of home mortgages made to low-, moderate-, middle- and upper-income borrowers and make a percentage comparison of total home mortgage loans with the population in each income category.
  - number and dollar volume of small loans to businesses or farms by loan size of $100,000 or less, more than $100,000 but less than or equal to $250,000, and more than $250,000.
  - number and dollar amount of small loans to businesses or farms that had annual revenues of less than $1 million, and compare with total reported number and amount of small loans to businesses or farms.
  - loans made outside the AA if borrowers within the AA are adequately served and it would enhance the assessment of the bank's performance.

Review CD lending to determine the CD lending opportunities, the bank's responsiveness and the extent of its leadership.

Determine whether lending performance is enhanced by offering innovative or more flexible loan products by considering:
- if LMI borrowers are served in new ways or the loans serve creditworthy borrowers not previously served.
- the success of each product, including number and dollar volume of originations.

Large Banks – Data Collection

General

Collect and maintain data on loans to small businesses or farms captured in Schedule RC-C of the Call Report (loans originated or purchased).
- unique loan number or alphanumeric symbol
- dollar amount of the loan at origination
- location of the loan
- Indicate whether the gross annual revenues of the business or farm are $1 million or less.

Submit annually by March 1 the following data:
- for each geography, loans to small businesses and farms (loans originated or purchased), including
  - aggregate number and dollar amount of loans at origination in loan size categories of $100,000 or less, more than $100,000 but less than or equal to $250,000, and more than $250,000.
  - aggregate number and dollar amount of loans to businesses and farms with gross revenues of $1 million or less.
- aggregate number and dollar amount of CD loans (originated or purchased).
- home mortgage loans as required under Regulation C (HMDA).
- a list for each assessment area showing the geographies within the area.
- affiliate lending if affiliate lending is being considered.
- consortium or third-party lending if consortium or third-party lending is being considered.

Optional

Collect and maintain data for consumer loans (originated and purchased).
- unique loan number or alphanumeric symbol
- dollar amount of the loan at origination
- location of the loan
- gross annual income of the borrower that is considered in making the credit decision

Any other information concerning lending performance the bank chooses to provide

Large Banks – Lending Performance Ratings

Characteristic	Outstanding	High Satisfactory	Low Satisfactory	Needs to Improve	Substantial Noncompliance
Lending Activity	Lending levels reflect EXCELLENT responsiveness to AA credit needs.	GOOD	ADEQUATE	POOR	VERY POOR
Assessment Area(s) Concentration	A SUBSTANTIAL MAJORITY of loans are made in the bank's AA.	HIGH PERCENTAGE	ADEQUATE PERCENTAGE	SMALL PERCENTAGE	VERY SMALL PERCENTAGE
Geographic Distribution of Loans	The geographic distribution of loans reflects EXCELLENT penetration throughout the AA.	GOOD	ADEQUATE	POOR	VERY POOR
Borrower's Profile	The distribution of borrowers reflects, given the product lines offered, EXCELLENT penetration among customers of different income levels and businesses of different sizes.	GOOD	ADEQUATE	POOR	VERY POOR
Responsiveness to Credit Needs of Low-Income Individuals and Geographies and Very Small Businesses	Exhibits an EXCELLENT record of serving the credit needs of low-income individuals and areas and very small businesses.	GOOD	ADEQUATE	POOR	VERY POOR
Community Development Lending Activities	A LEADER IN MAKING CD loans.	MAKES A RELATIVELY HIGH LEVEL	MAKES AN ADEQUATE LEVEL	MAKES A LOW LEVEL	MAKES FEW, IF ANY
Product Innovation	Makes EXTENSIVE USE of innovative and/or flexible lending practices in serving AA credit needs.	USE	LIMITED USE	LITTLE USE	NO USE

Large Banks – Investment Test

Performance Standards

Dollar amount of qualified investments

Innovativeness and complexity of qualified investments

Responsiveness of qualified investments to credit and CD needs

Degree to which qualified investments are not routinely provided by private investors

Qualified investments must benefit the AA or a broader statewide or regional area that includes the AA.

(Optional) Qualified investments made by an affiliate bank will be considered if not claimed by any other institution.

Examiner Review

Identify qualified investments.
- Review investment portfolio.
- At bank's option, review affiliate's investment portfolio.
- Include qualified investments made since previous examination and qualified investments made prior to last examination still outstanding.
- Include qualifying grants, donations or in-kind contributions of property made since last examination that have a primary purpose of CD.

Evaluate investment performance.
- benefit to assessment area or broader statewide or regional area that includes AA
- has not been considered under lending or service test
- if reported, that affiliate investments have not been claimed by another institution
- dollar volume of investments made considering performance context
- use of innovative or complex investments, particularly those not routinely provided by other investors
- responsiveness to available opportunities and degree to which they serve LMI areas or individuals

Large Banks – Investment Performance Ratings

Characteristic	Outstanding	High Satisfactory	Low Satisfactory	Needs to Improve	Substantial Noncompliance
Investment and Grant Activity	An EXCELLENT level of qualified CD investments and grants, particularly those not routinely provided by private investors, OFTEN in a leadership position.	SIGNIFICANT OCCASIONALLY	ADEQUATE RARELY	POOR	FEW, IF ANY
Community Development Initiatives	Makes EXTENSIVE USE of innovative and/or complex investments to support CD initiatives.	SIGNIFICANT USE	OCCASIONAL USE	RARE USE	NO USE
Responsiveness to Credit and Community Development Needs	Exhibits EXCELLENT responsiveness to credit and CD needs.	GOOD	ADEQUATE	POOR	VERY POOR

Large Banks – Service Test

Performance Standards	Examiner Review
Retail Banking Services	**Retail Banking Services**
Distribution of branches among each geography classification	**Determine** from the bank's public file the distribution of branches among each geography classification in the AA and the banking services provided, including hours and available products.
Record of opening and closing branches, particularly those located in LMI geographies or primarily serving LMI individuals	**Identify** any material differences in hours or services available at each branch. **Evaluate** the record of opening and closing branch offices and its effect, particularly on LMI geographies or individuals.
Availability and effectiveness of alternative systems for delivering retail banking services in LMI geographies and to LMI individuals	**Evaluate** the accessibility and use of alternative systems for delivering retail banking services in LMI areas and to LMI individuals.
Range of services provided in each geography classification and the degree the services are tailored to meet the needs of those geographies	**Assess** the quantity, quality and accessibility of service-delivery systems provided in each geography classification. – Consider the degree to which services are tailored to the convenience and needs of each geography.
Community Development Services	**Community Development Services**
Extent of CD services provided	**Identify** CD services of the bank and, at its option, services through affiliates. **Ensure** CD services meet the definition of CD service.
Innovativeness and responsiveness of CD services	**Evaluate** CD services using performance context information and consider: – innovativeness and whether they serve LMI customers in new ways or serve groups of customers not previously served. – the degree to which they serve LMI areas or LMI individuals and their responsiveness to available service opportunities.

Large Banks – Service Performance Ratings

Characteristic	Outstanding	High Satisfactory	Low Satisfactory	Needs to Improve	Substantial Noncompliance
Accessibility of Delivery Systems	Delivery systems are READILY ACCESSIBLE to the bank's geographies and individuals of different income levels in its AA.	ACCESSIBLE	REASONABLY ACCESSIBLE	UNREASONABLY INACCESSIBLE TO PORTIONS OF	UNREASONABLY INACCESSIBLE TO SIGNIFICANT PORTIONS OF
Changes in Branch Locations	Record of opening and closing of branches has IMPROVED the accessibility of its delivery systems, particularly to LMI geographies and/or LMI individuals.	NOT ADVERSELY AFFECTED	GENERALLY NOT ADVERSELY AFFECTED	ADVERSELY AFFECTED	SIGNIFICANTLY ADVERSELY AFFECTED
Reasonableness of Business Hours and Services in Meeting AA Needs	Services ARE TAILORED TO CONVENIENCE AND NEEDS OF its AA, particularly LMI geographies and/or LMI individuals.	DO NOT VARY IN A WAY THAT INCONVENIENCES	DO NOT VARY IN A WAY THAT INCONVENIENCES	VARY IN A WAY THAT INCONVENIENCES	VARY IN A WAY THAT SIGNIFICANTLY INCONVENIENCES
Community Development Services	A LEADER IN PROVIDING CD services.	PROVIDES A RELATIVELY HIGH LEVEL OF	PROVIDES AN ADEQUATE LEVEL OF	PROVIDES A LIMITED LEVEL OF	PROVIDES FEW, IF ANY

CRA Ratings

Small Banks

Outstanding

- if the bank meets the rating descriptions and standards for Satisfactory for each of the five core criteria and materially exceeds the standards for Satisfactory in some or all of the criteria to the extent that an outstanding rating is warranted
  or
- if the bank's performance with respect to the five core criteria generally exceeds Satisfactory and its performance in making qualified investments and providing branches and other services and delivery systems in the AA supplements its performance under the five core criteria sufficiently to warrant an overall rating of Outstanding

Satisfactory

- if the bank meets each of the standards for a Satisfactory rating
  or
- if exceptionally strong performance with respect to some of the standards compensates for weak performance in others

Needs to Improve or **Substantial Noncompliance**

- depending on the degree to which a bank's performance has failed to meet the standards for a Satisfactory rating

Intermediate Small Banks

Outstanding

- if the bank is rated Outstanding on both the lending and CD tests or if the bank is rated Outstanding on one test and at least Satisfactory on the other test

Satisfactory

- if the bank receives at least a Satisfactory rating on both the lending and CD tests

Needs to Improve or **Substantial Noncompliance**

- depending on the degree to which a bank's performance has failed to meet the standards for a Satisfactory rating on a test

Large Banks

Component test ratings that reflect the bank's lending, investments and services are assigned.

Component Test Ratings	Lending	Investment	Service
Outstanding	12	6	6
High Satisfactory	9	4	4
Low Satisfactory	6	3	3
Needs to Improve	3	1	1
Substantial Noncompliance	0	0	0

Preliminary composite rating is assigned by summing the component test ratings for lending, investment and service tests and referring to the chart below.

Points	Composite Assigned Rating
20 +	Outstanding
11 – 19	Satisfactory
5 – 10	Needs to Improve
0 – 4	Substantial Noncompliance

No bank may receive a composite assigned rating of Satisfactory or higher unless it receives at least Low Satisfactory on the lending test. The assigned rating can be no more than three times the score on the lending test.

Strategic Plan

Bank must identify satisfactory measurable goals and, to be considered for an Outstanding rating, must identify a separate group of outstanding measurable goals that substantially exceed the Satisfactory level.

An Outstanding rating will be assigned if the bank exceeds its plan goals for a Satisfactory rating and substantially achieves its plan goals for an Outstanding rating.

A Satisfactory rating will be assigned if the bank substantially achieves its plan goals for a Satisfactory rating.

A Needs to Improve or Substantial Noncompliance rating will be assigned if the bank fails to substantially meet its plan goals for a Satisfactory rating, unless the bank elects in its plan to be evaluated under the appropriate alternative large or small bank assessment method.

All Banks

Evidence of discriminatory or other illegal credit practices adversely affects the evaluation of a bank's CRA performance.

A final overall CRA rating is assigned.

- Banks with branches in just one state will receive one set of component ratings. Banks with branches in two or more states and banks with branches in two or more states of a multistate MSA will be assigned component ratings for each state or multistate MSA.

Definitions

Assessment Area(s) — One or more of the geographic area(s) that is delineated by the bank and used by the regulatory agency in evaluating the bank's record of helping to meet the credit needs of its community. It must, in general, consist of one or more MSAs or metropolitan divisions or one or more contiguous political subdivisions, such as counties, cities or towns. It must include geographies in which the bank has its main office, branches and deposit-taking ATMs, as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans. A bank may adjust the boundaries of its AA to include only the portion of a political subdivision that it reasonably can be expected to serve. An AA must consist only of whole geographies, may not reflect illegal discrimination, may not arbitrarily exclude LMI geographies and may not extend substantially beyond an MSA boundary or beyond a state boundary, unless the AA is located in a multistate MSA.

Community Development — Encompasses affordable housing (including multifamily rental housing) for LMI individuals; community services targeted to LMI individuals; activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's Development Company or Small Business Investment Company programs or have gross annual revenues of $1 million or less; or activities that revitalize or stabilize LMI geographies, designated disaster areas or distressed or underserved non-metropolitan middle-income geographies designated by the Board of Governors, FDIC and OCC.

Community Development Loan — A loan that has as its primary purpose community development; (except for wholesale or limited purpose banks) has not been reported or collected by the bank or an affiliate for consideration in the bank's assessment as a home mortgage, small business, small farm or consumer loan, unless it is a multifamily dwelling loan; and benefits the bank's AA or a broader statewide or regional area that includes the bank's AA.

Community Development Service — A service that has as its primary purpose community development, is related to the provision of financial services, has not been considered in the evaluation of the bank's retail banking services, benefits the bank's AA or a broader statewide or regional area that includes the bank's AA and has not been claimed by other affiliated institutions.

Discriminatory or Other Illegal Credit Practices — Activities that result in violations of an applicable law, rule or regulation, including, but not limited to, the Equal Credit Opportunity Act; the Fair Housing Act; the Home Ownership and Equity Protection Act; section 5 of the Federal Trade Commission Act; section 8 of the Real Estate Settlement Procedures Act; and the Truth in Lending Act provisions regarding a consumer's right of rescission.

Geography — A census tract delineated by the U.S. Bureau of the Census in the most recent decennial census.

Income Level – Geography
- **Low-Income** — Median family income less than 50 percent of the area median income
- **Moderate-Income** — Median family income at least 50 percent and less than 80 percent of the area median income
- **Middle-Income** — Median family income at least 80 percent and less than 120 percent of the area median income
- **Upper-Income** — Median family income at least 120 percent of the area median income

Income Level – Individual
- **Low-Income** — Less than 50 percent of the area median income
- **Moderate-Income** — At least 50 percent and less than 80 percent of the area median income
- **Middle-Income** — At least 80 percent and less than 120 percent of the area median income
- **Upper-Income** — At least 120 percent of area median income

Limited Purpose Bank — A bank that offers only a narrow product line, such as credit card or motor vehicle loans, to a regional or broader market and has received designation as a limited purpose bank from its supervisory agency.

Performance Context — A bank's performance is judged in the context of information about the bank and its AA, including
- demographic data on median income levels, distribution of household income, nature of housing stock, housing costs and other relevant data
- lending, investment and service opportunities
- the bank's product offerings and business strategy, capacity and constraints, past performance and the performance of similarly situated lenders
- the bank's public file and any written comments about the bank's CRA performance
- any other relevant information

Qualified Investment — A lawful investment, deposit, membership share or grant that has as its primary purpose community development.

Small Bank — A bank that, as of December 31 of either of the prior two calendar years, had total assets of less than $1 billion. **Intermediate Small Bank** means a small bank with assets of at least $250 million as of December 31 of both of the prior two calendar years and less than $1 billion as of December 31 of either of the prior two calendar years. Asset size designation will be adjusted annually based on the year-to-year change in the average of the consumer price index for urban wage earners and clerical workers.

Wholesale Bank — A bank that is not in the business of extending home mortgage, small business, small farm or consumer loans to retail customers and has received designation as a wholesale bank from its supervisory agency.