



Comptroller of the Currency
Administrator of National Banks

US Department of the Treasury

CRA Hot Topics

March 4, 2009

Kathy Orell

Compliance Lead Expert, OCC

Tim O'Donnell

Regional Compliance Examiner, OTS



CD Definition – Effective September 1, 2005

- Affordable housing for low- or moderate-income individuals
- Community services for low- or moderate-income individuals
- Activities that promote economic development by financing small businesses/farms
- Activities that revitalize or stabilize –
 - LMI geographies
 - Designated disaster areas
 - Distressed or underserved nonmetropolitan middle-income geographies designated by the agencies





What Qualifies as Community Development?

- **Activities that revitalize and stabilize designated **disaster** areas by:**
 - Helping to attract new, or retain existing, residents and businesses (including by providing jobs) and is related to disaster recovery - or be part of bona fide plan to revitalize or stabilize the geography
 - Must provide a long-term direct benefit to the area
 - Greater weight to those activities that benefit LMI individuals and areas
 - Must be provided within 36 months following the date of designation – however, this may be extended



“The List”

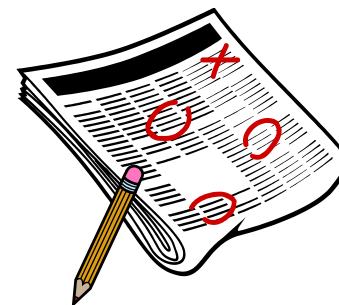
- **List of Distressed and Underserved Geographies available on FFIEC Website (www.ffiec.gov/cra)**
 - Reviewed and updated by the agencies annually and posted to the website
 - FFIEC geocoder identifies if address is in distressed/underserved geography
- **One-year lag period in effect for the calendar year following the date of removal from the list**



“Distressed” Geographies

Distressed Nonmetropolitan Middle-Income Geographies:

- **Meet one or more of triggers for:**
 - Unemployment rate
 - Poverty rate
 - OR
 - Population loss or net migration loss





“Underserved” Geographies

Underserved Nonmetropolitan Middle-Income Geographies:

- Based on population size, density, and dispersion
- Population so small, thin and distant from a population center that it has difficulty financing essential community needs





What are Designated Disaster Areas?

- **Major disaster area designated by federal government**
- **List of FEMA-declared disaster areas available on FEMA's website (www.fema.gov)**





Qualitative Considerations

- Large and Small Banks:
 - Innovativeness or complexity
 - Responsiveness to credit and CD needs
 - Degree to which the qualified investments are not routinely provided by private investors
- Intermediate Small Banks:
 - Responsiveness to community development lending, investment, and services needs in the AA
- Q&A ____ .12(t) - 1
 - Qualitative factors will affect the weighting given to both current period and outstanding prior-period QI



Qualified Investments: What Qualifies?

- Must meet primary purpose definition and benefit the bank's assessment area or the broader statewide or regional area that includes the assessment area
- Can be made directly into a qualified activity or indirectly through a fund
- Can be made by the bank or by its affiliate
- Includes cash or in-kind donations made to a CRA-qualified entity/organization



Activities – Not CRA Qualified Investments

- Donations (cash or in-kind) to an entity that does not meet the primary purpose of community development as defined in the CRA regulation
- Energy tax credits
- FHLB unpaid dividends
- FNMA stock
- Historic tax credits
- Loan principal charge-offs
- MBS - UNLESS backed by loans to LMI individuals
- Waiving of fees on loans



CD Loans: What Qualifies?

- Must meet primary purpose definition and benefit the bank's assessment area or the broader statewide or regional area that includes the assessment area
- Can be made directly to a qualified activity or indirectly to a fund
- Can be made by the bank or by its affiliate
- For ISBs only, small business, small farm, or consumer loan, as long as they are not double counted.
- Multi-family dwelling loan for affordable housing is double-reported (HMDA and CRA)



Interagency Q&As

Issued for comment on July 11, 2007

New Qs & As published January 2009

Combined with earlier documents in 2001 and 2006

- OCC Bulletin 2001-39
- OCC Bulletin 2006-16
 - Consideration for prior period qualified investments
 - Qualitative factors influence consideration of both current period and prior-period investment



Minority- or Women-Owned Institutions Q&A

New Q&A § __.12(g) – 4

- Addresses activities of a majority-owned institution with a minority- or women-owned institution or low-income credit union (MWLI)
 - Participating institution will receive positive CRA consideration even if the MWLI is not in its assessment area
 - Consider capital investments, loan participations, and other ventures
 - Must help meet credit needs of the communities in which MWLIs are located



Minority- or Women-Owned Institutions Q&A

Examples:

- Making a deposit or capital investment
- Purchasing a participation in a loan
- Loaning an officer or providing other technical expertise to assist an MWLI in improving its lending policies and practices
- Providing financial support to enable an MWLI to partner with schools or universities to offer financial literacy education to members of its local community
- Providing free or discounted data processing systems, or office facilities to aid an MWLI in serving its customers



New Examples of Economic Development

- Revised Q&A § __.12(g)(3) -1
- Adds the following examples of entities in which investments in or loans to will be presumed to promote economic development:
 - Rural Business Investment Company (RBIC)
 - New Markets Tax Credit-Eligible Community Development Entity (CDE)



Examples of Other Loan Data Q & A

- **New Q&A § __.22(a)(2) – 4**
- **Provides examples of other loan data**
 - Loans funded for sale to secondary markets not reported under HMDA
 - Unfunded loan commitments and letters of credit
 - Commercial and consumer leases
 - Business/farm loans secured by residential real estate used to finance small businesses or small farms
 - Set-aside loans that don't meet the primary CD purpose
 - LOC increases over the CRA loan limit



Participations, Renewals, and Refi Qs & As

- **New Q&A § __.22(a)(2) – 6**
 - Consider and report amount of participation purchased
- **New Q&A § __.42(b)(2) – 4**
 - Use entire amount of lead loan to determine if participation purchased is a small loan to a business or a CD loan (over \$1MM cutoff for large banks)
- **New Q&A § __.42(b)(2) – 5**
 - Report CD loan renewals and refinances
- **New Q&A § __.22(a)(2) – 7**
 - How to report small business/small farm loan refinances when residential real estate is taken as an abundance of caution



New Examples of Qualified Investments

- Revised Q&A § __.12(t)
- Adds the following examples of investments, grants, deposits or shares in or to:
 - Financial intermediaries (including New Markets Tax Credit-eligible CD Entities)
 - CD venture capital companies that promote economic development by financing small businesses



New Examples of CD Loans

- Revised Q&A § __.12(h) -1
- Adds the following examples of loans to:
 - Financial intermediaries including New Markets Tax Credit-eligible CD Entities (CDEs)
 - Businesses, in an amount > \$1 million, when made as part of the SBA's 504 Certified Development Company program



New Examples of CD Services

- Revised Q&A § __.12(i) – 3
- Adds the following example of:
 - Increasing access to financial services by opening or maintaining branches or other facilities that help to revitalize or stabilize a LMI geography, designated disaster area, or a distressed or underserved nonmetropolitan middle-income geography
 - unless has been considered in the evaluation of the institution's retail banking services under the Service Test



National or Regional CD Fund Q&A

- Proposed New Q&A § __.23(a) – 2
- If make a loan or investment in national or regional CD fund:
 - Should demonstrate that the investment meets the geographic requirements of the CRA reg by:
 - Benefiting one or more of the institution's AA(s) or a broader statewide or regional area that includes the institution's AA(s)



CRA Threshold Update-Effective 1/1/09

- Large banks: \$1.109 billion
- Intermediate small banks: \$277 million

Bank	TA 12/31/08	TA 12/31/07	CRA Type as of 1/1/09
A	\$280 million	\$260 million	Small – lending test only
B	\$1.025 billion	\$900 million	Intermediate Small Bank
C	\$1.300 billion	\$1.025 billion	Intermediate Small Bank
D	\$1.500 billion	\$1.300 billion	Large Bank



Hurricane Katrina/Rita Guidance



- **OCC Bulletin 2006-6**
 - Banks located outside the hurricanes Katrina/ Rita disaster areas may receive positive consideration for activities related to disaster recovery that help to revitalize or stabilize these areas, provided that they have adequately met the CRA-related needs of their local communities
- **OCC Bulletin 2008-24**
 - Extended the time period for CRA consideration for an additional 36 months



Unfunded Commitments

- Unfunded commitments to invest are generally considered as a performance context issue because they are off-balance sheet contingent liabilities
- LIHTC commitments are current period investments IF:
 - Recorded on the bank's books,*
 - Unconditional,
 - Legally binding, and
 - Committed to during the current evaluation period.

* EITF 94-1 governs accounting treatment of unfunded commitments for LIHTC