

CRA Questions & Answers and CRA Challenges in a Changing Economic Environment

Utah CRA Bankers Roundtable

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Interagency Qs & As

- Proposal issued for comment on July 11, 2007
- New Qs & As published January 2009
- Generally:
 - Majority of questions adopted as proposed or with revisions
 - Nine (9) new questions
 - Substantive changes to fourteen (14) questions
 - One proposed question withdrawn
 - Proposing for comment, one new and two revised Qs and As



New Qs & As



Minority- or Women-Owned Institutions

- Q&A § __.12(g) – 4
- Addresses activities of a majority-owned institution in cooperation with a minority- or women-owned institution or low-income credit union (MWLI)
 - Majority institution will receive positive CRA consideration even if activity does not benefit its assessment area
 - But, must help meet credit needs of the communities in which MWLIs are located
 - Consider:
 - Deposits or capital investments
 - Loan participations
 - Technical assistance to MWLI
 - Financial support to offer financial literacy training
 - Provision of free or discounted data processing or office facilities



HMDA & SB Loans as Community Development

- Q&A §____.12(h)-3
- Applies to Intermediate Small Banks (ISBs) that have not elected to be considered under the large bank test
- At the institution's option, HMDA, small business and small farm loans may be considered as community development loans if they meet the regulatory definition
 - Be sure to document community development purpose!
- Lose option if elect to be considered under the large bank test
 - However, if loan data reported because bank wants to preserve option to be considered as LB, but bank subsequently chooses ISB test, option remains.
- May choose individual loans for consideration



Other Loan Data

- Q&A § __.22(a)(2) – 4
- Other loan data that can be considered under lending test
 - 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 not reported as SB or HMDA
 - Set-aside loans that don't meet the primary CD purpose
 - LOC increases over the CRA loan limit



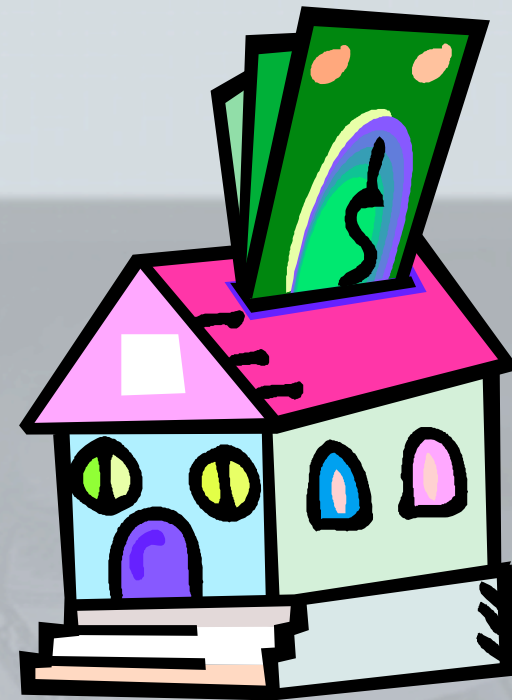
Purchased Loan Participations

- Q&A § ____.22(a)(2)-6
- Purchase of loan participating treated as the purchase of a loan
- Examiners will consider whether participations have been resold merely to inflate value for CRA purposes



Small Business Loans Sec'd by 1-4 Family Residence

- Q&A § ____.22(a)(2)-7
- Small business loan sec'd by dwelling only reportable if security interest taken as abundance of caution.
- For HMDA, only report if a refinance of a small business loan
- Can have double counting
- Agencies don't anticipate double counting will be a problem but examiners will consider overlap
- Can report as "other data" if not reportable for HMDA or CRA



Investment in a Nationwide Fund

- Q&A § __.23(a) – 2
- When determining whether investment in nationwide fund meets the CRA's geographic requirements, examiners will consider whether the purpose, mandate, or function of the fund include serving geographies or individuals within the institution's assessment area. Consider:
 - Prospectus or other documents provided by fund
 - Written documentation indicating fund will use best efforts to invest in bank's AA
 - Evidence that funds or projects are earmarked for the AA
 - Evidence of double-counting may result in no consideration
 - Allocation/pro-rata share of projects in AA is OK
 - Before investing, be sure the fund's record is consistent with your goals.



Examination as an ISB



- Q&A § __.26(a)(2)-1
- No lag period between passing threshold and being examined as an ISB.
- Example
 - 12/31/X1 – pass ISB threshold
 - 12/31/X2 – pass ISB threshold
 - 1/1/X3 – Bank is an ISB
 - If exam is 2/1/X3, bank will be examined as an ISB
- What does this mean?
 - PLAN AHEAD! Don't wait until the last minute to think about engaging in CD activities.



Reporting Participations in CD Loans

- Q&A § __.42(b)(2) – 4
- For CD loan participations, report only the amount of the loan purchased.
 - Compare: for small business loans, report the loan amount at origination.
- Agencies believe reporting participating amount only more accurately portrays the institution's involvement in community development lending.



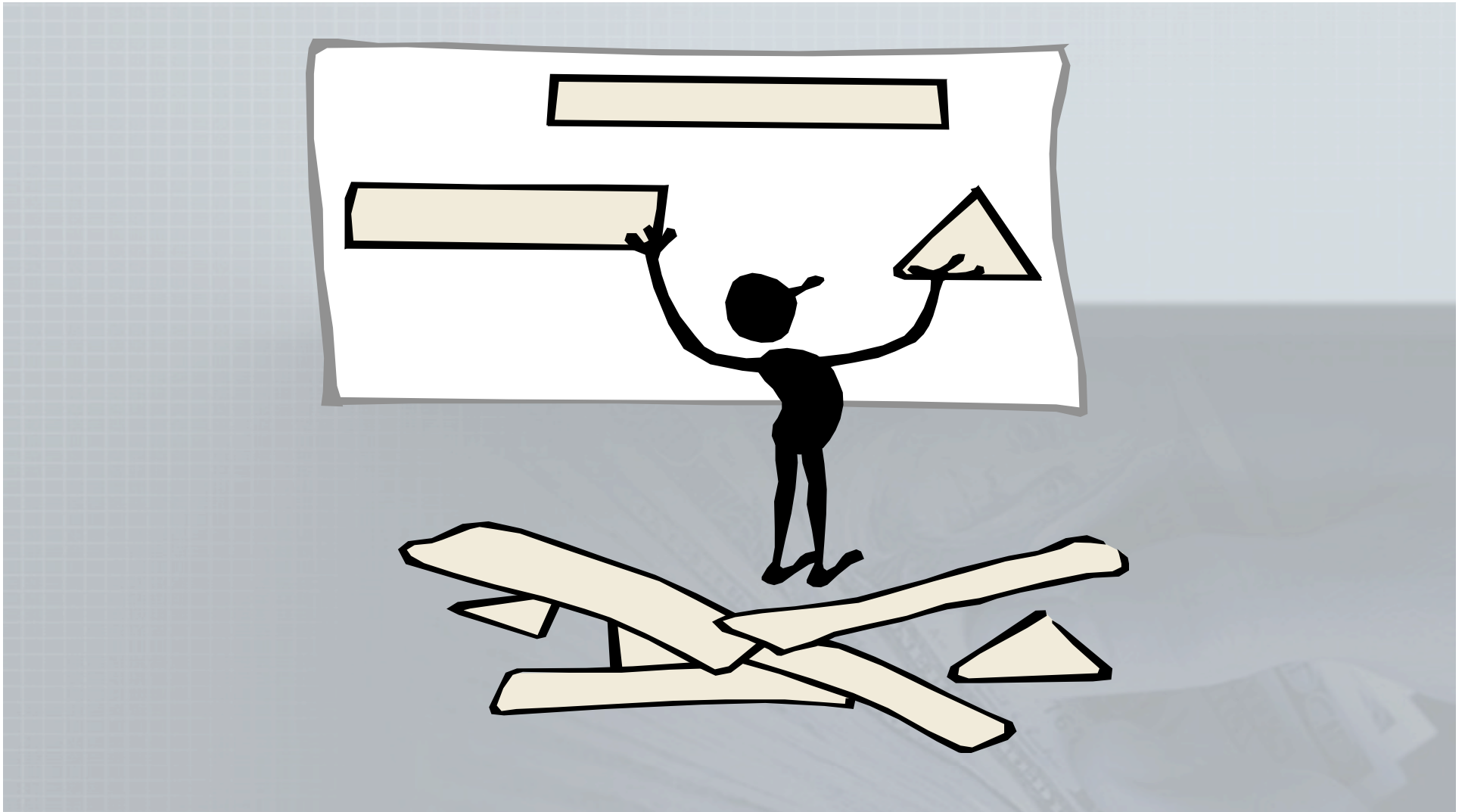
Refinanced or Renewed CD Loans



- Q&A § __.42(b)(2) – 5
- Collect and report information on renewals and refinances of CD loans.
- Same rules apply as for renewals and refinances of small business loans.
 - See § __.42(a) – 5
 - Only report one origination per year
 - Can report increase as a new loan



Revised Qs & As



Revised Qs&As

- Q&A § __.12(g)(3)-1: Activities that promote economic development
 - Loans or investments in Rural Business Investment Companies (RBICs) or New Markets Tax Credit-Eligible Community Development Entities (CDEs) will be presumed to promote economic development
- Q&A § __.12(h)-1: Examples of community development loans
 - Loans to CDEs
 - Loans > \$1 million to a business when made as part of SBA 504 Certified Development Company program
- Q&A § __.12(i)-3: Examples of community development services
 - Free and low-cost check cashing
 - Low-cost savings or checking accounts
 - Foreclosure prevention programs for LMI



Revised Qs&As

- Q&A § __.12(t)-3: Federal Home Loan Bank dividends
 - Clarifies that funds retained by the FHLB to support the affordable housing program are not qualified investments
 - Other activities (i.e., technical assistance to applicants) may receive consideration as a CD service
- Q&A § __.12(t)-4: Examples of qualified investments
 - Financial intermediaries (including New Markets Tax Credit-eligible CD Entities)
 - CD venture capital companies that promote economic development by financing small businesses
- Q&A § __.12(u)(2)-1: Small institution adjustment
 - Provides information regarding annual adjustments to asset threshold for small and intermediate small banks and refers reader to FFIEC website.



Revised Qs&As

- Q&A § __.22(a)-1: Responsive lending activities
 - Clarifies that loan programs that provide relief from foreclosure are responsive.
 - Objective should be affordable, sustainable, long-term relief through refinancings, restructures, or modifications.
 - Applies to loans for primary residences and LMI borrowers
- Q&A § __.22(c)(2)(i)-1: Constraints on affiliate lending
 - Clarifies that constraints on considering affiliate lending applies regardless of exam type.
 - Can consider loans as both origination and purchase
 - Cross references § __.22(c)(2)(ii)-1 and § __.22(c)(2)(ii)-2: Allocations should not be solely to enhance CRA evaluations.
- Q&A § __.24(d)-1: Retail banking services delivery systems
 - Clarifies that primary emphasis is on full service branches
 - Alternative delivery systems considered to the extent that they are effective alternatives for providing services to LMI areas and individuals



Revised Qs&As

- Q&A § __.41(e)(4)-1& § __.41(e)(4)-2: Assessment area may not extend beyond MSA boundaries
 - Adopts the revised Office of Management and Budget terminology (e.g. CSA vs. CMSA)
- Q&A § __.42-1: Reporting data under the CRA regulations
 - Refers to “small” institution rather than asset size with regard to reporting requirements
- Q&A § __.42(a)-7: Reporting home equity lines of credit (HELOC) for home improvement and business purposes
 - Changes for consistency with Reg. C (HMDA)
 - Home improvement portion reportable under HMDA at bank’s option
 - If refinance a HELOC into another HELOC, can report entire line (optional)
 - If choose not to report for HMDA, can report as CD loan if it meets the definition
 - If does not meet CD definition, can collect (but not report) data as “Other Secured Line/Loan for small business.”



Revised Qs&As

- Q&A § __.42(a)(2)-1: Participations in small business or small farm loans
 - Clarifies that when reporting the loan amount for participations of small business or small farm loans, report the amount at origination, NOT at purchase
- Q&A § __.12(g)-3: Considering performance in high-cost areas
 - Adds cross reference to Q&A § __.12(g)-8, which provides information on the “primary purpose” of community development to give assist in the determination of when consideration can be given for performance in high-cost areas.



Other Changes

- Proposed revision to Q&A §____.23(e)-2 withdrawn
 - Addressed consideration of legally binding commitments recorded by the institution according to GAAP
 - Proposal was inconsistent with a prior interagency interpretive letter
 - Examiners will continue to give consideration to legally binding commitments recorded according to GAAP
- Proposed New/Revised Qs & As
 - Q&A §____.12(g)(2)-1: Ways to determine a CD service is offered to LMI individuals
 - Q&A §____.12(h)-8: Definition of primary purpose
 - Would allow institutions to receive consideration for a pro-rata share of CD activity benefiting mixed-use housing projects where < majority of housing is for LMI
 - Comments were due March 9, 2009
 - <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>



CRA Challenges in a Changing Economic Environment



Consumer Compliance
Division of Banking Supervision and Regulation

Contents

Facing the challenges of the current economic environment while managing CRA

- What's the Same?
- What's Different?
- Tips for Managing CRA in this Environment
- Best Practices
- Resources



What's the Same?

- Regulation and examination procedures have not changed
- Need to understand and manage CRA performance on an ongoing basis
- A performance context that details opportunities and constraints in local community
- Focus on lending test
- Need for qualified community development activities



What's Different?

- Local economy
- Housing market
- Credit standards
- Loan demand
- Capacity to lend
- Needs in the community
- Community development opportunities



Develop a Stronger Performance Context

- How has the environment changed for you institution?
- What does bank management know about the local market and economy, relative to community development opportunities?
- Has loan demand declined or changed?
- Has the creditworthiness of the bank's customers changed?
- Is the bank facing any liquidity or other constraints?
- Has your business strategy or product offering changed as a result of current economic conditions?
- Are there any other relevant factors that may impact your capacity or ability?



Analyze Direct Lending

- Review lending volumes
- Analyze geographic distribution and proportion of loans to borrowers of different income levels and businesses of different sizes
- Are fewer loans made to small businesses or in low- and moderate-income areas? Why?
- Does your performance context support these lending levels and patterns?
- Are there other programs that support direct lending?
 - FHA Hope 4 Homeowners program by making FHA insured loans to at risk borrowers. http://portal.hud.gov/portal/page?_pageid=73,7601299&_dad=portal&_schema=PORTAL
 - Federal loan guarantee programs such as FHA and SBA



Understand Community Development Activities

- Where are they located?
 - Within assessment area
 - In a broader statewide or regional area that includes the bank's assessment area
- Do they have a Community Development purpose?
 - Affordable housing for LMI individuals;
 - Community services targeted to LMI individuals;
 - Activities that promote economic development by financing businesses or farms; 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.



Examples of Qualified CD Loan Activities

- Contact developers who are accessing funding through HUD's Neighborhood Stabilization Program.
- These developers will receive funding for acquisition and development of foreclosures to turn those properties around. The developers may also need bank financing for other operating costs until the projects can be sold.
- <http://www.hud.gov/offices/cpd/communitydevelopment/programs/neighborhoodspg/>



Examples of Qualified CD Investment Activities

- Providing funding for housing counseling
 - Consumer Credit Counseling Services
 - HUD certified counseling agencies
 - The state of CA is funding Rural Community Assistance Corp and Calif. Reinvestment Coalition with housing counseling grants--banks could support these organizations to further leverage the state's support
- Provide donations to help capitalize loan-rescue funds for low- or moderate-income borrowers mired in predatory loans.
 - A number of predatory loan rescue funds have been established to help keep homeowners in their properties and avoid the trauma of foreclosure. Supporting a loan-rescue fund that is part of a municipal plan to revitalize and stabilize a low- or moderate-income geography would also be viewed positively under CRA.



Examples of Qualified CD Service Activities

- Provide housing counseling directly
 - Training programs could include:
 - readiness to buy a home
 - budgeting and money management
 - basic banking
 - understanding credit
 - the home buying process (working with a realtor, house shopping)
 - the mortgage (processing, underwriting, closing)
 - post purchase counseling & foreclosure protection
- Use HUD's HOPE NOW program to work with borrowers who need loan modifications to prevent foreclosure
 - <http://www.hopenow.com/>



Best Practices

- Make a determination about which activities have a community development purpose
 - Don't provide examiners an extensive list of "possible" CD loans, services and investments to review
- Provide supporting information for donations (not just a copy of the check)
 - What information did the bank rely on to determine that the donation was a qualified community development investment? Does the non-profit serve predominantly LMI people or small businesses?
- Track the number of hours of community development service performed
 - Examiners use this to measure performance
- Track the number of units supported with Community Development investments and loans
 - "This loan funded the construction of 54 units; 40 are affordable to those earning less than 80% of AMI"
 - "This LIHTC funded 260 units of affordable housing"
- Track which assessment area received benefit
 - This will also help the bank self identify weaknesses



Resources

- Federal Reserve Bank of San Francisco website
 - <http://www.frbsf.org/community/>
- Bankers Quick reference Guide to CRA
 - <http://www.dallasfed.org/ca/pubs/quickref.pdf>



Questions



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