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CRA Examination Procedures: Answers to Common Questions

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The Federal Reserve Bank of San Francisco recently completed a series of ten Community Reinvestment Act regulation examination procedures roundtables throughout the Twelfth District in cooperation with the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the Office of the Comptroller of the Currency. Over 250 financial institution representatives participated.

This article details the most commonly asked questions and answers from the series. The questions and answers have been separated into general CRA regulation categories.

Lending

Q. How are multi-state banks operating under one charter examined?

A. Multi-state financial institutions receive institution-wide CRA evaluations with analyses of CRA performance for each metropolitan area (MSA, CMSA, PMSA) where there are branches. For non-metropolitan areas, separate analyses supported by relevant data are presented for each area. These analyses are not as specific as ratings, but tend to follow similar standards.

Q. If lending is through an affiliate, is it viewed separately during an examination?

A. Yes & No. Affiliate lending can be considered part of overall lending performance only if an institution elects to have it included. Institutions must collect, maintain, and report data for any particular category of affiliate lending to be considered and this lending can be measured only once. Also, all loans in a selected category must be examined for each affiliate.
Note that although affiliate loans may be included, they are not considered in evaluating the proportion of total lending within an institution's assessment area(s).

Q. What lending performance is considered "jobs creating" under the CRA?

A. Although there is not a specific definition of jobs creation in the CRA regulation, the regulation does state that in order to receive community development lending consideration, loans must support activities that revitalize or stabilize low- or moderate-income geographies. As such, loans that result in increased employment opportunities must create jobs that will be permanent additions to a work force. Loans that support job retention or provide better jobs for low- or moderate-income people would also receive CRA consideration.

Q. What is meant by borrower's profile?

A. The term, "borrower's profile" is one of seven categories assessed under the large bank lending test. In each of the categories assessed, a large financial institution receives either an outstanding, high satisfactory, low satisfactory, needs to improve, or substantial noncompliance rating. To receive an outstanding rating in the borrower's profile category, a financial institution's portfolio of borrowers must reflect "excellent" penetration, given product lines offered among customers of different income levels and businesses of different sizes.

Q. How is community development lending measured?

A. Community development lending is one of five criteria evaluated under the lending test. A financial institution's community development lending activity is measured by the number and dollar amount of community development loans, and the extent, complexity, and innovativeness of those loans.

Examiners will determine the extent to which community development lending opportunities have been available to an institution, the responsiveness of an institution's community development lending, and the extent of leadership an institution has demonstrated in its community development lending.

Q. Against what criteria is lending distribution measured?

A. Criteria used to measure lending distribution include the institution's performance context and established assessment area, the geographic distribution of loans across census tracts and block numbering areas of different income levels, the distribution of loans among borrowers with different income levels, data from peer institutions, and legitimate business reasons for an allocation of lending activity.

Services

Q. How should I measure service, including volunteer efforts?

A. Volunteer efforts receiving service test consideration must relate to the provision of financial services and be provided as part of an employee's ordinary course of business as a representative of his/her financial institution.

Examiners look for records of activities that explain types of activities, their applicability under the CRA, and personnel involved and the extent of their involvement. There is no preferred method of reporting and so institutions are encouraged to develop informative internal reporting structures.

Q. Are supermarket locations considered by examiners to be the same as free-standing branches?

A. Yes. Full-service supermarket branches within a bank's assessment area(s) would be evaluated as traditional brick and mortar facilities. Examiners review the distribution of offices, including supermarket branches, among low-, moderate-, middle- and upper-income geographies in each assessment area and evaluate banking services offered, hours of operation, and available loan and deposit products.

Although primary emphasis is placed on full-service branches, alternative delivery systems such as automated teller machines are also evaluated. Supermarket locations that do not include access to complete bank services would be evaluated for convenience and effectiveness as alternative delivery systems.

Investments

Q. How do examiners review qualified investments for eligibility under the CRA and what information do they want to see?

A. Examiners must identify a financial institution's qualified investments that benefit its assessment area(s). This is accomplished by reviewing the investment portfolio, and at the institution's option, its affiliate's investment portfolio.

This review includes qualified investments made since the previous examination (including those that have been sold or have matured) and qualified investments made prior to the previous examination that are still outstanding. Examiners also consider qualifying grants, donations, or in-kind contributions of property since the previous examination that are for community development purposes.

A prospectus or other information describing an investment, grant, donation, or in-kind contribution will help examiners to determine its eligibility.

Q. Would school bonds in rural areas that are not low- or moderate-income be eligible investments? In what cases would school bonds or sewer bonds be eligible?

A. Usually, general issue municipal bonds are not eligible for investment credit because fund distribution cannot be controlled to target low- or moderate-income areas or individuals. However, there may be an argument for eligibility if the bonds were specifically designed for programs targeted to low- or moderate individuals, even though the funds may not be exclusively channelled to low- or moderate-income areas. Bonds specifically targeted to low- or moderate-income areas generally would be eligible for investment credit.

Q. What are examples of "innovative" investments?

A. An example of an innovative qualified investment could be one in which a nonprofit organization provides loans for low-income housing development through the sale of tax-exempt bonds secured by low-income real estate properties to financial institutions.

Another example could be a proposal by a nonprofit housing organization to create a construction loan pool. This pool which would provide construction financing for low-income borrowers with take-out financing provided by a state agency, and could be created through the solicitation of low interest rate investments from financial institutions and other affordable housing development organizations.

Assessment Area
Q: What constitutes a "majority" of loans in an assessment area?

A. Typically, a majority of loans in an assessment area would be 51% or greater, although this percentage will vary depending on financial institution products and services, assessment area(s), and performance context.

Q. Will financial institutions be required to enlarge their assessment areas to include geographies where there are no branches but there is a fair amount of lending? Should areas with loan production offices be included?

A. Financial institution assessment areas (other than wholesale or limited-purpose) must consist of whole geographies, generally should include entire political subdivisions, should include geographies in which an institution has its main office, branches, and deposit-taking ATMs, and should include surrounding geographies in which an institution has originated or purchased a substantial portion of its loans.

Also, each assessment area may not reflect illegal discrimination and may not arbitrarily exclude low or moderate-income geographies, given the institution's size and financial condition. A financial institution may include an area tangential to a geography that does not extend substantially beyond a CMSA boundary. If a geography does extend substantially beyond a CMSA, a separate assessment area may be needed.

If including an entire political subdivision would create an area that is too large for an institution to reasonably serve, the institution may adjust the boundaries of its assessment area to include only portions of a political subdivision. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

For purposes of the CRA, loan production offices (LPOs) are not considered to be "branches." A bank cannot delineate a separate assessment area outside a CMSA based solely upon the location of an LPO. However, an institution may elect to delineate a larger geography to ensure that its assessment area appropriately reflects its lending activity.

Examiners will use the assessment area(s) delineated by the institution in its evaluation of the bank's CRA performance unless the assessment area does not comply with the requirements of the regulation.

Q. If tribal lands are contiguous to my assessment area, must I include them?

A. No. If including an entire political subdivision like an Indian reservation would create an area that is larger than the area the institution can reasonably be expected to serve, an institution may, but is not required to, adjust the boundaries of its assessment area to include only portions of a political subdivision.

While Indian reservations are political subdivisions for CRA purposes, financial institutions should be aware that the boundaries of these reservations may not be consistent with boundaries of census tracts or block number areas. In these cases, institutions must ensure that their assessment area(s) consists only of whole geographies by adding portions of the geographies that lie inside or outside a political subdivision to the delineated assessment area.

Note that when adjusting the boundaries of their assessment areas, institutions must not arbitrarily exclude low- or moderate-income geographies or set boundaries that reflect illegal discrimination.

Performance Context

Q. How are community contacts chosen? How is the information they provide used as part of an examination? Is this information available to the public?

A. Examiners solicit community contacts in portions of given assessment areas that appear to have relatively lower consumer, mortgage or commercial lending activity. Examiners then use their own knowledge of an area to make contacts or solicit the advice of local government representatives, regulatory community affairs representatives, other examining agency representatives, or local publications listing appropriate contacts.

As part of the examination process, examiners consider information obtained from interviews with local community, civic, and government leaders. These interviews provide examiners with knowledge regarding the local community, its economic base, and any community development initiatives. To foster a wider array of contacts, the agencies share community contact information. The information, however, is not publicly available.

Data Collection

Q. My bank is transitioning from small to large. If my "large bank"" examination occurs before data are to be submitted, what do I do? When is my bank officially considered a "large institution?"

A. In this case, if the CRA examination occurs before data are to be submitted, this institution would be examined as a small bank.

Data on community development loans, small business and small farm loans must be reported by large financial institutions by March 1 for the previous calendar year. Small banks do not have to submit these data.

A financial institution is considered "large" when total assets exceed $250 million or, if applicable, when holding company assets exceed $1 billion as of the end of either of the two prior calendar years. Therefore, if a financial institution transitions to a large bank during a calendar year by exceeding asset limits, it would not be examined as a large bank until after December 31 of the second calendar year in which its assets exceeded $250 million. Additionally, the revised regulation states that an institution that was a small institution during the prior calendar year but is no longer a small institution would be subject to data collection and maintenance requirements but not data reporting requirements. The data reporting requirements do not apply because the institution would not have collected data to report.

Wholesale/Limited Purpose

Q. Do limited purpose banks need to maintain public files?

A. Yes. All institutions are required to maintain public files. An institution should maintain one copy of its public file at its main office and, if an interstate institution, at one branch office in each state.

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