DEPARTM

Office of the Comptroller of the Currency

12 CFR Parts 5, 24, 25, and 35

[Docket ID OCC-2026-0694]

RIN 1557-AF57

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 345 and 346

RIN 3064-AG31

Community Reinvestment Act Regulations

AGENCY: The Office of the Comptroller of the Currency, Treasury, and the Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) are proposing to amend their Community Reinvestment Act rules by making certain substantive, technical, and process-oriented changes to refocus on the statutory objective of encouraging banks to meet the credit needs of their communities; to better ensure that community development grants reach the communities they are intended to benefit; to reduce unnecessary burden, particularly for community banks; and to provide greater clarity for how to obtain CRA consideration. The OCC and the FDIC are also proposing certain technical changes to their rules implementing the Community Reinvestment Act sunshine requirements of the Federal Deposit Insurance Act. In addition, the OCC is proposing similar technical changes to its Public Welfare Investments rule and its Rules, Policies, and Procedures for Corporate Activities.

DATE: Comments must be received on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Comments should be directed to the agencies as follows:

OCC: Commenters are encouraged to submit comments through the Federal eRulemaking Portal. Please use the title "Community Reinvestment Act Regulations" to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal – Regulations.gov:*

Go to *https://regulations.gov/*. Enter Docket ID "OCC-2026-0694" in the Search Box and click "Search." Public comments can be submitted via the "Comment" box below the displayed document information or by clicking on the document title and then clicking the "Comment" box on the top-left side of the screen. For help with submitting effective comments, please click on "Commenter's Checklist." For assistance with the *Regulations.gov* site, please call 1-866-498-2945 (toll free) Monday-Friday, 9 a.m.-5 p.m. EST, or e-mail *regulationshelpdesk@gsa.gov*.

- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street, SW, Suite 1E-216, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street, SW, Suite 1E-216, Washington, DC 20219.

Instructions: You must include "OCC" as the agency name and Docket ID "OCC-2026-0694" in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this action by the following method:

- *Viewing Comments Electronically – Regulations.gov:*

Go to *https://regulations.gov/*. Enter Docket ID "OCC-2026-0694" in the

Search Box and click "Search." Click on the "Dockets" tab and then the document's title. After clicking the document's title, click the "Browse All Comments" tab. Comments can be viewed and filtered by clicking on the "Sort By" drop-down on the right side of the screen or the "Refine Comments Results" options on the left side of the screen. Supporting materials can be viewed by clicking on the "Browse Documents" tab. Click on the "Sort By" drop-down on the right side of the screen or the "Refine Results" options on the left side of the screen checking the "Supporting & Related Material" checkbox. For assistance with the *Regulations.gov* site, please call 1-866-498-2945 (toll free) Monday-Friday, 9 a.m.-5 p.m. EST, or e-mail *regulationshelpdesk@gsa.gov*.

The docket may be viewed after the close of the comment period in the same manner as during the comment period.

FDIC: Comments should be directed to the FDIC, identified by RIN 3064-AG31, by any of the following methods:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.* Follow instructions for submitting comments on the FDIC website.
- *Mail:* Jennifer M. Jones, Deputy Executive Secretary, Attention: Comments—RIN 3064-AG31, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivered/Courier:* Comments may be hand-delivered to the guard station at the rear of the 550 17th Street NW building (located on F Street NW) on business days between 7 a.m. and 5 p.m.
- *Email: comments@FDIC.gov.* Include RIN 3064-AG31 on the subject line of the message.
- *Public Inspection:* Comments received, including any personal information provided, may be posted without change to *https://www.fdic.gov/federal-register-publications.* Commenters should submit only information that the commenter wishes to make available publicly. The FDIC may review, redact, or refrain from posting all or any portion of any comment that it may deem to be inappropriate for publication, such as irrelevant or obscene material. The FDIC may post only a

single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. All comments that have been redacted, as well as those that have not been posted, that contain comments on the merits of this notice will be retained in the public comment file and will be considered as required under all applicable laws. All comments may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT:

OCC: Emily Boyes, Special Counsel; Marjorie Dieter, Special Counsel; or Kevin Behne, Counsel, Chief Counsel's Office, (202) 649-5490; Michelle Newell, Lead Expert; Cassandra Remmenga, CRA Modernization Program Manager; Chief National Bank Examiner's Office (202) 649-5470, Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

FDIC: Stephanie M. Baroody, Senior Examination Specialist, Compliance and CRA Examinations Branch, Division of Depositor and Consumer Protection, (571) 858-8311; Kristopher M. Rengert, Senior Policy Analyst, Supervisory Policy Branch, Division of Depositor and Consumer Protection, (202) 898–3593; Cassandra Duhaney, Counsel, Legal Division, (202) 898– 6804; Alys V. Brown, Senior Attorney, Legal Division, (202) 898-3565, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Introduction

The OCC and the FDIC (together, the agencies) are proposing targeted changes to their regulations implementing the Community Reinvestment Act (CRA) in order to better align with the statutory mandate, reduce unnecessary burden, and improve clarity.[1] Because these rules

[1] Pub. L. 95–128, 91 Stat. 1147 (1977) (codified at 12 U.S.C. 2901 *et seq*. (as amended) and implemented by the OCC at 12 CFR part 25, subparts A through D, and by the FDIC at 12 CFR part 345). For reasons explained

generally date back to 1995,[2] the agencies have decades of experience applying them to the insured depository institutions they supervise (hereinafter, banks).[3] Based on this experience, as well as feedback the agencies have received through various initiatives described below, these targeted changes are designed to retain the key elements of the current regulatory framework to provide continuity and minimize disruptions while making revisions to accomplish the goals listed above.

Congress enacted the CRA in 1977 based on its express findings that: "(1) regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business; (2) the convenience and needs of communities include the need for credit services as well as deposit services; and (3) regulated financial institutions have continuing and affirmative obligation[s] to help meet the credit needs of the local communities in which they are chartered."[4] Congress codified its intent in enacting the statute, stating that its purpose "is to require each appropriate Federal financial supervisory agency . . . to encourage [the institutions that each agency

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below, the currently applicable rules, promulgated in 1995, can be found on the website for the Electronic Code of Federal Regulation at *https://www.ecfr.gov/on/2024-03-29/title-12/chapter-I/part-25* and *https://www.ecfr.gov/on/2024-03-29/title-12/chapter-III/subchapter-B/part-345*. *See* 12 CFR part 25 (version effective as of Mar. 29, 2024); 12 CFR part 345 (version effective as of Mar. 29, 2024). References to "current rule" or "current rules" in this SUPPLEMENTARY INFORMATION refers to these rules.

[2] The agencies, along with the Board of Governors of the Federal Reserve System (Board) and the Office of Thrift Supervision (OTS), first promulgated CRA rules in 1978 and established the standards for evaluating a bank's CRA performance. 43 FR 47144 (Oct. 12, 1978). In 1995, the four agencies significantly revised and clarified the 1978 rules (1995 CRA rules). *See* 60 FR 22156 (May 4, 1995). As discussed below, the substance and structure of the agencies current rules are primarily based on the 1995 CRA rules.

[3] For purposes of the CRA, "insured depository institution" is defined by cross-reference to 12 U.S.C. 1813(c)(2) as "any bank or savings association the deposits of which are insured" by the FDIC pursuant to the Federal Deposit Insurance Act (FDIA). 12 U.S.C. 2902(2). The FDIA defines "bank" as "any national bank and State bank, and any Federal branch and insured branch." 12 U.S.C. 1813(a)(1). It defines "savings association" to include any Federal or State savings association. 12 U.S.C. 1813(b)(1). As used in this SUPPLEMENTARY INFORMATION, the term "bank" or "banks" includes uninsured Federal branches that result from an acquisition described in the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)). The CRA defines "appropriate Federal financial supervisory agency" as the OCC, FDIC, and Board. 12 U.S.C. 2902(1). Pursuant to the CRA, the OCC is the appropriate Federal financial supervisory agency for national banks and Federal savings associations. 12 U.S.C. 2902(1)(A). The FDIC is the appropriate Federal financial supervisory agency for state-chartered non-member banks and savings associations. 12 U.S.C. 2902(1)(C). For purposes of this SUPPLEMENTARY INFORMATION, the agencies use the term "appropriate agency" instead of "appropriate Federal financial supervisory agency."

[4] 12 U.S.C. 2901(a). The CRA defines "regulated financial institution" as an insured depository institution as defined in 12 U.S.C. 1813(c)(2). 12 U.S.C. 2902(2).

regulates] to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of the institutions."[5]

To achieve this purpose, the CRA requires each agency to "assess [an] institution's record of meeting the credit needs of its entire community, including low- and moderate-income [(LMI)] neighborhoods, consistent with the safe and sound operation of such institution."[6] Upon completing this assessment, the statute requires the agency to "prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including [LMI] neighborhoods."[7] The statute further provides that the agency must "take such record into account in its evaluation of an application for a deposit facility by such institution."[8] The CRA also directs each agency to publish a rule to carry out the statute's purposes.[9]

In recent years, the agencies have undertaken numerous initiatives, on an interagency basis and individually, to revise and modernize their CRA rules. As a result of these efforts, they have received significant public feedback. For example, from 2013 to 2016, the agencies solicited feedback on their CRA regulatory framework as part of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) review process.[10] In 2018, the OCC published an advance notice of proposed rulemaking to solicit ideas for a new CRA regulatory framework and received more than 1,500 comment letters.[11] In 2019, the agencies issued a joint notice of proposed rulemaking to update their CRA rules and received over 7,500 comment

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[5] 12 U.S.C. 2901(b).

[6] 12 U.S.C. 2903(a)(1).

[7] 12 U.S.C. 2906(a).

[8] 12 U.S.C. 2903(a)(2).

[9] 12 U.S.C. 2905. Pursuant to Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376, 1522 (2010) (Dodd-Frank Act), Congress transferred the OTS's rulemaking authority for all savings associations to the OCC and its supervisory authority for State savings associations to the FDIC. As a result, the OCC's CRA regulation applies to both State and Federal savings associations (in addition to national banks), and the FDIC enforces the OCC's CRA regulation with respect to State savings associations.

[10] *See* 82 FR 15900 (Mar. 30, 2017) (EGRPRA report to Congress). The Board and the National Credit Union Association joined this report.

[11] 83 FR 45053 (Sept. 5, 2018).

letters,[12] and in 2020, the OCC finalized that rule (2020 CRA rule).[13] In 2021, the OCC rescinded the 2020 CRA rule and replaced it with a rule based largely on the 1995 CRA rules.[14]

In 2022, the agencies, along with the Board (together with the agencies, the Federal banking agencies), issued a joint notice of proposed rulemaking to modernize their CRA rules.[15] Approximately 950 unique comment letters were submitted in response. After considering public comments received, the Federal banking agencies issued final rules (2023 CRA rules) on October 24, 2023.[16] On February 5, 2024, several trade association plaintiffs jointly sued the Federal banking agencies in the U.S. District Court for the Northern District of Texas, challenging the 2023 CRA rules.[17] On February 9, 2024, these trade associations sought preliminary injunctive relief,[18] which the court granted on March 29, 2024, preliminarily enjoining the Federal banking agencies from enforcing the 2023 CRA rules against the plaintiffs pending resolution of the litigation.[19] The District Court also extended the effective date of and all implementation dates for the 2023 CRA rules for each day that its preliminary injunction would remain in place.[20] As a result of these actions, the Federal banking agencies have been continuing to apply the rules that were in effect when the District Court issued its order (the current rules).[21]

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[12] 85 FR 1204 (Jan. 9, 2020).

[13] 85 FR 34734 (June 5, 2020).

[14] 86 FR 71328 (Dec. 15, 2021).

[15] 87 FR 33884 (June 3, 2022).

[16] 89 FR 6574 (Feb. 1, 2024).

[17] Complaint for Declaratory and Injunctive Relief, *Tex. Bankers Ass'n v. Office of the Comptroller of the Currency*, Civ. A. No. 2:24-cv-00025-Z (N.D. Tex. Feb. 5, 2024), ECF No. 4.

[18] Plaintiffs' Motion for a Preliminary Injunction, *Tex. Bankers Ass'n v. Office of the Comptroller of the Currency*, Civ. A. No. 2:24-cv-00025-Z (N.D. Tex. Feb. 9, 2024), ECF No. 19.

[19] *Tex. Bankers Ass'n v. Office of the Comptroller of the Currency*, 728 F. Supp.3d 412, 429-30 (N.D. Tex. 2024). The District Court issued the injunction just days before April 1, 2024, when the 2023 CRA rules would have become effective and certain parts of those rules would have applied to banks. *See* 89 FR at 6574, 7137.

[20] *Tex. Bankers Ass'n*, 728 F. Supp.3d at 430.

[21] *See id.* at 429-30 and *supra* note 1. The proposal would recodify the text of the current rules, revised as discussed in this SUPPLEMENTARY INFORMATION.

In its memorandum opinion and order, the District Court concluded that the plaintiffs had demonstrated a substantial likelihood of success on the merits of their claim that the Federal banking agencies exceeded their authority in issuing the 2023 CRA rules.[22] For example, the District Court determined that the Federal banking agencies' interpretation of "entire community" in the 2023 CRA rules clashed with the statutory text.[23] It also concluded that the plaintiffs' argument about the required nexus between a bank's "community" and its physical location was stronger than the Federal banking agencies' contrary argument.[24] Additionally, the District Court considered the Major Questions Doctrine and rejected the Federal banking agencies' assertion that Congress granted the authority to assess a bank CRA performance wherever the bank makes loans.[25]

On April 18, 2024, the Federal banking agencies appealed the District Court's preliminary injunction to the U.S. Court of Appeals for the Fifth Circuit.[26] On March 28, 2025, during the pendency of the appeal, the Federal banking agencies filed an unopposed motion to stay the appeal pending completion of new rulemakings that would propose to rescind the enjoined 2023 CRA rules and reinstate the prior CRA framework.[27] On April 1, 2025, the Fifth Circuit granted the Federal banking agencies' motion.[28]

On July 16, 2025, the Federal banking agencies published a notice of proposed rulemaking to rescind the 2023 CRA rules (rescission proposal) and, with minor conforming and technical edits, to replace it with the rules in effect on March 29, 2024 (the date on which the

[22] *Tex. Bankers Ass'n*, 728 F. Supp.3d at 420-25.

[23] *See id.* at 420-23.

[24] *See id.* at 421.

[25] *See id*. at 425.

[26] Defendants' Notice of Appeal, *Tex. Bankers Ass'n* v. *Office of the Comptroller of the Currency*, Civ. A. No. 2:24-cv-00025-Z (N.D. Tex. Apr. 18, 2024), ECF No. 79.

[27] Defendants-Appellants' Unopposed Motion to Stay Pending Completion of New Rulemaking Proceedings, *Tex. Bankers Ass'n* v. *Bd. of Governors of the Fed. Reserve Sys.*, No. 24-10367 (5th Cir. Mar. 28, 2025), ECF No. 165. As discussed above, the prior CRA framework refers to the agencies' current rules.

[28] Order, *Tex. Bankers Ass'n v. Bd. of Governors of the Fed. Reserve Sys.*, Civ. A. No. 24-10367 (5th Cir. Apr. 1, 2025), ECF No. 174.

District Court enjoined the 2023 CRA rules).[29] The Federal banking agencies explained that this approach aligned with their shared objectives of restoring certainty to the CRA regulatory framework and limiting regulatory burden on banks.[30]

The Federal banking agencies received approximately 47 comments on the rescission proposal. After considering these comments, as well as public feedback from the initiatives outlined above, the litigation related to the 2023 CRA rules, and their extensive supervisory experience with the current rules, the OCC and the FDIC have decided not to finalize the rescission proposal but to issue this new proposal instead.[31]

On July 1, 2026, the OCC and FDIC filed an unopposed motion with the Fifth Circuit to dismiss their appeal of the District Court's injunction against their 2023 CRA rules.[32] The Fifth Circuit dismissed the agencies' appeal on July 9, 2026.[33]

The OCC and FDIC are now moving the District Court for the entry of a final judgment against them. The language of the OCC's and FDIC's proposed judgment would, if entered by the Court, declare that future amendments to the OCC's and FDIC's CRA regulations could neither be based on (1) an expansive view of "entire community" that provides for or permits the assessment of regulated institutions' retail lending activities outside the geographic areas where they operate and maintain deposit-taking facilities; nor (2) an expansive view of "credit needs" that provides for or permits the assessment of regulated institutions' deposit products.

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[29] 90 FR 34086 (July 18, 2025).

[30] 90 FR at 34089.

[31] This notice of proposed rulemaking is being issued jointly by the agencies. Any decisions about the Board's next steps with respect to the rescission proposal rest exclusively with its Governors.

[32] Motion to Voluntarily Dismiss Appeal in Part, *Tex. Bankers Ass'n v. Bd. of Governors of the Fed. Reserve Sys*., Civ. A. No. 24-10367 (5th Cir. July 1, 2026), ECF No. 197.

[33] Clerk Order, *Tex. Bankers Ass'n v. Bd. of Governors of the Fed. Reserve Sys.*, Civ. A. No. 24-10367 (5th Cir. July 9, 2026), ECF No. 201-1.

II. Summary of the Current Rules[34]

The agencies' current rules address a variety of components intended to implement the statute. They set out a performance assessment framework, which includes performance tests or standards the agencies use to evaluate a bank's CRA performance depending on its asset size or business strategy. They also explain CRA assigned ratings; data collection, maintenance, and disclosure requirements; the public's right to access information about how a bank meets the credit needs of its community; and the effect of a CRA rating on certain bank applications. To provide guidance on the current rules, the Federal banking agencies have periodically published the Interagency Questions and Answers Regarding Community Reinvestment (Interagency Questions and Answers).[35] The components of the current rules, as well as certain applicable guidance, are described below.

A. CRA Regulatory Framework

Small banks, including intermediate small banks. Under the current rules, a bank that meets the definition of a "small bank"—currently, those with assets of less than $1.649 billion as of December 31 of either of the prior two calendar years—is evaluated under a lending test for small banks.[36] A subset of small banks that are "intermediate small banks"—currently, those with assets of at least $412 million as of December 31 of both of the prior two calendar years—are also evaluated under a community development (CD) test.[37]

Large banks. Under the current rules, a bank with assets that exceed the small bank asset size threshold—currently, those with assets greater than $1.649 billion as of December 31 of

[34] As noted above, the current rules are the rules in effect when the 2023 CRA rules were enjoined on March 29, 2024.

[35] *See* 81 FR 48506 (July 25, 2016). "Interagency Questions and Answers" refers to the "Interagency Questions and Answers Regarding Community Reinvestment" guidance in its entirety. "Q&A" refers to an individual question and answer within the Interagency Questions and Answers.

[36] *See* current 12 CFR __.12(u), __.21(a)(3), and __.26(b). As discussed below, the OCC has recently performed its annual asset size threshold adjustments through a bulletin process. While the FDIC often makes the same adjustments through a final rule, the FDIC has also used *Federal Register* announcements that do not revise the regulatory text of its current rule.

[37] *See* current 12 CFR __.12(u) and __.26(c).

both of the prior two calendar years (commonly referred to as a "large bank")—is evaluated under separate lending, investment, and service tests.[38] The lending and service tests consider both retail and CD activities,[39] and the investment test focuses on qualified investments. To facilitate the agencies' CRA examinations, a large bank is required to collect, maintain, and report annually certain data on CD loans, small business loans, and small farm loans; these banks are also required to report annually the census tracts included in their assessment area(s).[40] In contrast, small banks, including intermediate small banks, are not required to report these data unless they opt to be evaluated under the large bank lending test.[41]

Wholesale and limited purpose banks. A bank that is designated as either a wholesale bank (*i.e.*, a bank that is not in the business of extending retail loans to retail customers)[42] or a limited purpose bank (*i.e.*, a bank that offers only a narrow product line to a regional or broader market)[43] is evaluated under a standalone CD test.[44] In order for an agency to designate a bank as a wholesale bank or limited purpose bank, the bank must file a request with and receive approval from the appropriate agency.[45]

Strategic plans. Any bank may elect to be evaluated under a tailored strategic plan in lieu of one of the otherwise applicable tests or standards discussed above.[46] A bank that elects to be

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[38] *See* current 12 CFR __.21(a)(1) and __.22 through__.24 (lending, investment, and service tests). The current rules do not define "large bank," but their existence is implied for banks that exceed the asset-size threshold for the intermediate small bank definition.

[39] Throughout this SUPPLEMENTARY INFORMATION, the term "activity" refers to a loan, investment, grant, or service, as applicable.

[40] *See* current 12 CFR __.42(a), (b), and (g).

[41] *See* current 12 CFR __.42(f).

[42] *See* current 12 CFR __.12(x).

[43] *See* current 12 CFR __.12(n).

[44] *See* current 12 CFR __.21(a)(2) and __.25.

[45] *See* current 12 CFR __.25(b).

[46] *See* current 12 CFR __.21(a)(4) and __.27.

evaluated under a strategic plan must develop that plan with community input and receive plan approval from the appropriate agency.[47]

Retail and CD activities. Under the current rule, the appropriate agency evaluates a bank's record of meeting the credit needs of its community by assessing its retail and CD activities under the applicable performance tests or standards. The retail activities considered under the current rules are (1) consumer, home mortgage, small business, and small farm lending, as applicable; and (2) retail banking services and delivery systems. The current rules also consider as CD activities a bank's loans, investments, and services that have a primary purpose of community development.[48] The current rules define "community development" to mean: (1) affordable housing; (2) community services targeted to LMI individuals; (3) economic development that finances small businesses and small farms; and (4) activities that revitalize or stabilize LMI geographies, designated disaster areas, and distressed or underserved nonmetropolitan middle-income geographies.[49] Qualified investments are defined to include investments, grants, deposits, and membership shares.[50] CD services are generally volunteer services provided by a bank that, in addition to having a primary purpose of community development, also are related to the provision of financial services.[51]

Assessment areas. A bank is required to delineate one or more assessment areas in which the appropriate agency evaluates its record of helping to meet the credit needs of its community through the provision of retail and CD activities.[52] An assessment area must include the geographies (*i.e.*, census tracts) in which the bank's main office, branches, and deposit-taking automated teller machines (ATMs) are located, as well as the surrounding census tracts where a

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[47] *See* current 12 CFR __.27(g).

[48] *See* current 12 CFR __.12(h), (i), and (t).

[49] *See* current 12 CFR __.12(g).

[50] *See* current 12 CFR __.12(t).

[51] *See* current 12 CFR __.12(i).

[52] *See* current 12 CFR __.41(a).

substantial portion of its loans are originated or purchased.[53] A bank may adjust the boundaries of its assessment areas to include only the portion of a political subdivision that it reasonably can be expected to serve, subject to certain limitations.[54]

B. Performance Tests

Lending test. Under the current lending test, the appropriate agency evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering (1) its retail lending (*i.e.*, consumer, home mortgage, small business, and small farm lending, as applicable); and (2) its CD lending.[55] The agency evaluates consumer lending in one or more specific product lines (*i.e.*, motor vehicle, credit card, other secured, and other unsecured loans) either at a bank's option or if consumer lending constitutes a substantial majority of the bank's business. If a bank opts to have the appropriate agency evaluate its consumer lending, the bank must collect and maintain the data required by 12 CFR __.42 for each category of consumer lending that it elects to have the agency evaluate. In considering a bank's CD lending, the agency considers the number and amount of the bank's CD loans, as well as the complexity and innovativeness of the lending.

Investment test. Under the current investment test, the appropriate agency evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through qualified investments that benefit (1) the assessment area(s); or (2) a broader statewide or regional area that includes the assessment area(s).[56] The agency considers the dollar amount of the qualified investments, as well as their complexity, innovativeness, and responsiveness and the extent to

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[53] *See* current 12 CFR __.41(b) and (c).

[54] *See* current 12 CFR __.41(d) and (e).

[55] *See* current 12 CFR __.22(a).

[56] *See* current 12 CFR __.23(a).

which they are not routinely provided by private investors.[57] Generally, an activity considered under the lending or service tests may not be considered under the investment test.[58]

Service test. Under the current service test, the appropriate agency evaluates a bank's record of helping to meet the credit needs of its assessment area(s) by analyzing (1) the availability and effectiveness of the bank's systems for delivering retail banking services; and (2) the extent, innovativeness, and responsiveness of the CD services that benefit the bank's assessment area(s) or the broader statewide or regional area(s) that includes the bank's assessment area(s).[59] In evaluating a bank's retail banking services, the agency considers its (1) distribution and record of opening and closing branches; (2) alternative systems for delivering retail banking services; and (3) the range of services that the bank provides.[60]

Small bank performance standards. The current rules include small bank performance standards, which include a small bank lending test. Under that test, the appropriate agency assesses a small bank's (including an intermediate small bank's) lending and other lending-related activities, as applicable, under several performance criteria, including (1) its loan-to-deposit ratio and the percentage of loans in its assessment area(s); (2) the borrower distribution and geographic distribution of its loans; and (3) its record of taking action in response to written complaints.[61] For a small bank that is not an intermediate small bank, the agency may also consider its CD lending under the lending test. For an intermediate small bank, the agency also assesses its performance under a CD test that considers: (1) the number and amount of CD loans and investments; (2) the extent to which the bank provides CD services; and (3) the responsiveness of a bank's CD activities to community needs.[62]

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[57] *See* current 12 CFR __.23(e).

[58] *See* current 12 CFR __.23(b).

[59] *See* current 12 CFR __.24(a) and (b).

[60] *See* current 12 CFR __.24(d).

[61] *See* current 12 CFR __.26(b).

[62] *See* current 12 CFR __.26(c).

Wholesale and limited purpose bank tests. Under the current CD test for wholesale and limited purpose banks, the appropriate agency assesses (1) the number and amount of a wholesale or limited purpose bank's CD activities; (2) its use of innovative or complex CD activities; and (3) the responsiveness of its CD activities.[63] The agency considers CD activities that benefit: (1) the bank's assessment area(s); and (2) if the bank has adequately addressed the needs of its assessment area(s), then areas outside of its assessment area(s).[64]

Strategic plan. For a bank of any size or business strategy that elects to be evaluated under a strategic plan under the current rule, the appropriate agency assesses the bank's strategic plan under measurable goals that the bank establishes for lending, investments, and services, as applicable.[65] A bank must establish measurable goals for a "satisfactory" rating and may establish measurable goals for an "outstanding" rating.[66] The approval of a plan does not affect a bank's obligation, if any, to report required data.[67]

Performance context. Under the current rules, the appropriate agency also considers applicable performance context information to inform its analysis and conclusions regarding a bank's CRA performance when conducting a CRA examination or approving a strategic plan.[68] Performance context is comprised of a broad range of economic, demographic, bank-specific, and community-specific information that the agencies consider to inform their assessment of a bank's efforts to meet the needs of and understand the opportunities in its local communities.

C. Ratings, Data and the Public File, and the Effect of CRA Performance on Applications

[63] *See* current 12 CFR __.25(c).

[64] *See* current 12 CFR __.25(e).

[65] *See* current 12 CFR __.27(f) and (g).

[66] *See* current 12 CFR __.27(f)(3).

[67] *See* current 12 CFR __.27(b).

[68] *See* current 12 CFR __.21(b).

Ratings. Consistent with the statute, the appropriate agency assigns each bank a rating of "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance" following a CRA examination.[69] The agencies rate a bank's overall record of performance and the bank's record of performance in applicable States and multistate metropolitan statistical areas (multistate MSA), as provided in the statute.[70]

To assign the bank, State, and multistate MSA ratings, the agencies rate a bank's performance under the applicable performance tests and then combine those ratings, if necessary. Specifically, under the current large bank examination procedures, the appropriate agency uses a rating scale to convert the rating assigned for each performance test into point values, which are added together to determine a bank's overall bank rating.[71] The lending test generally accounts for 50 percent of a large bank's rating, and the investment test and service test each generally account for 25 percent.[72]

In addition, an intermediate small bank may not receive an overall "satisfactory" rating unless it receives at least a "satisfactory" rating on both the lending test and the CD test.[73] An intermediate small bank that receives an "outstanding" on one test and at least "satisfactory" rating on the other test may receive an overall rating of "outstanding."[74] A small bank that is not

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[69] 12 U.S.C. 2906(b)(2), implemented by current 12 CFR __.28(a). The narrative descriptions of the ratings for performance under each evaluation method are in appendix A to the current rules. *See also* Q&A appendix A to part__—Ratings.

[70] An agency also assigns ratings for a bank's performance in each State in which the bank maintains one or more branches or other facilities that accept deposits and in each multistate metropolitan statistical area (MSA) in which the bank maintains branches or other facilities that accept deposits in two or more states within the multistate MSA. 12 U.S.C. 2906(d). Prior to reaching these overall ratings, an agency assigns performance test ratings at the State, multistate MSA, and institution level for each applicable performance test. With one exception, the current rating scale used for performance test ratings mirrors that of the four statutory institution-level ratings. For large banks, however, the agency bifurcates the "satisfactory" rating for each of the three performance tests into "high satisfactory" and "low satisfactory." *See* Q&A § __.28(a)—3; current 12 CFR __, appendix A, paragraph (b); Interagency Large Institution CRA Examination Procedures (Apr. 2014), *https://www.ffiec.gov/sites/default/files/data/cra/pdf/cra_exlarge.pdf*.

[71] *See* Q&A § __.28(a)—3; current 12 CFR __, appendix A, paragraph (b); *see also* Interagency Large Institution CRA Examination Procedures.

[72] *See* Q&A appendix A to part __—1.

[73] *See* current 12 CFR __, appendix A, paragraph (d)(3)(i).

[74] *See* current 12 CFR __, appendix A, paragraph (d)(3)(ii)(A).

an intermediate small bank may receive an “outstanding” rating based on its performance only under the lending test.[75] The appropriate agency may consider qualified investments, services, and delivery systems that enhance the availability of credit in a bank’s assessment areas for an “outstanding” rating, but only if the bank meets or exceeds the standards for a “satisfactory” rating under the lending test in the small bank performance standards.[76] In assigning a bank’s ratings, the appropriate agency considers any evidence of discriminatory or other illegal credit practices in connection with home mortgage, small business, small farm, consumer, and CD lending.[77]

Data and public file requirements. Under the current rules, a bank other than a small bank, is generally required to collect, maintain, and report certain data related to small business loans, small farm loans, CD loans, and assessment areas.[78] The current rules also include optional data collection requirements for: (1) a bank that elects to be evaluated based on consumer lending; and (2) a small bank (including an intermediate small bank) that elects to be evaluated under the lending, investment, and services tests.[79] In addition, the current rules require a bank to maintain a public file with information related to its CRA performance[80] and to provide a copy of this information in response to a request.[81] Finally, the current rules require a bank to post a CRA public notice in the public lobby of its main office and in each of its branches.[82]

Effect of CRA performance on applications. Under the current rules, the appropriate agency is required to take into account a bank’s CRA performance when considering certain

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[75] *See* current 12 CFR __, appendix A, paragraph (d)(3)(ii)(B).

[76] *See* Q&As §§ __. 26—1, __.26(b)—1, and __.26(b)—2.

[77] *See* current 12 CFR __.28(c).

[78] *See* current 12 CFR __.42(a) and (b).

[79] *See* current 12 CFR __.42(c) and (f).

[80] *See* current 12 CFR __.43.

[81] *See* current 12 CFR __.43(d). The copy can be either in paper form or another form that is acceptable to the requestor.

[82] *See* current 12 CFR __.44 and appendix B.

applications from the bank, including an application for: (1) the establishment of a domestic branch or other facility with the ability to take deposits; (2) a merger, consolidation, acquisition of assets, or assumption of liabilities; (3) the relocation of its main office or branch; (4) deposit insurance; (5) a transaction subject to the Bank Merger Act or the Home Owners' Loan Act; and (6) a charter application.[83] The bank's CRA performance may be the basis for denying or conditioning approval of an application.[84] These provisions implement the CRA statutory requirement that, in evaluating a bank's "application for a deposit facility," an agency must take into account its record of meeting the credit needs of its entire community, including LMI neighborhoods, consistent with the bank's safe and sound operation.[85]

III. Overview of the Proposal

Based on the extensive feedback the agencies have received on the current rules, the results of the litigation regarding the 2023 CRA rules, and the agencies' supervisory experience examining banks for compliance with the CRA, the agencies are proposing targeted changes to their current rules. These changes seek to refocus the agencies' CRA supervision on their statutory mandate to encourage the banks under their supervision to meet the credit needs of their local communities, including by increasing the focus on lending and by better ensuring the community development grants benefit communities. These changes are also intended to address specific and known challenges associated with the current rules by improving clarity and reducing unnecessary burden, especially for community banks, and to better ensure that, when banks receive credit for providing certain types of community development funding, the funds reach the communities they are intended to benefit instead of being diverted to other activities or excessive operating costs.

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[83] *See* current 12 CFR __.29(a) and (b).

[84] *See* current 12 CFR __.29(d).

[85] *See* 12 U.S.C. 2902(3) and 2903(a).

Before describing the proposed changes, however, it is important to note that as a general matter, the proposal leaves much of the current framework unchanged. For example, large banks would remain subject to lending, investment, and service tests that evaluate their retail lending and services, as well as their CD activities. Small banks and a new category—intermediate banks (which would replace the current rule's intermediate small bank category)—would remain subject to a tailored lending test, with a tailored CD test for intermediate banks. Banks would retain the option to be evaluated, as appropriate: (1) as a wholesale or limited purpose bank based on their CD activities; or (2) under a strategic plan based on specified measurable goals.

Notably, the proposal would also leave the current assessment area framework largely unchanged.[86] While the agencies recognize that banks' customer bases are increasingly geographically dispersed, the CRA statute focuses on the geographic area(s) surrounding a bank's physical facilities. For this reason, the agencies are not proposing significant changes to the current assessment area framework, which is largely tied to a bank's physical location(s).

A. Increase Focus on Lending

As discussed above, 12 U.S.C. 2903(a) requires an agency to assess a bank's record of meeting the credit needs of its entire community, including LMI neighborhoods. In the agencies' judgment, a community's credit needs are best and most directly met through activities that involve lending.[87] To further encourage this lending, the agencies are proposing several targeted

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[86] The CRA statute instructs the agencies to assess a bank's record of meeting the credit needs of its "entire community, including [LMI] neighborhoods, consistent with the safe and sound operation of such institution, and to take such record into account in its evaluation of an application for a deposit facility by such institution." 12 U.S.C. 2903(a). While the statute does not prescribe the delineation of assessment areas, the assessment area framework in the current rules requires banks to identify areas around their physical locations within which the agencies evaluate the bank's record of helping to meet the credit needs of its community.

[87] Retail and CD lending are not the only ways that a bank can meet the credit needs of its community under CRA. The Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA") added a section to the CRA entitled "Written Evaluations," which requires that the written evaluation of a bank's overall CRA performance and its performance in each evaluation area must: "state the appropriate [agency's] conclusions for each **assessment factor** identified in the regulations prescribed . . . to implement this chapter." 12 U.S.C. 2906(b)(1)(A) (emphasis added). The CRA rules in place in 1989, which the agencies adopted in 1978, included 12 "assessment factors," which included the bank's "record of . . . providing services at offices" and "participation, including investments, in local community development and redevelopment projects or programs." 12 CFR 25.7 and 345.7 (1978). Although the current rules do not use the term "assessment factors," it continues to consider the 12 items included in the 1978 assessment factors (referenced by Congress in the FIRREA), including investments

revisions to the current rules.

The proposal would modify how the agencies consider bank services.[88] Specifically, the proposal would narrow the range of services considered as retail banking services under the current rules to limit them to the range and availability of an institution's "credit services"—thereby excluding deposit services—as well as the distribution and availability of an institution's retail banking facilities.

Additionally, the proposal would clarify the concept of "responsiveness," a qualitative consideration that would apply to the evaluation of retail and CD activities under the proposal, and would define the term of "complexity," one component of responsiveness to encourage a focus on lending. Under the proposed definition, CD investments, grants, or services that are a necessary or otherwise beneficial component of a multicomponent financing transaction involving a loan would be considered complex, as would CD lending and certain CD investments that require specialized lending expertise.

B. Ensure that Community Development Grants Benefit Communities

The proposal would modify the treatment of grants and donations for purposes of qualifying grants and donations as CD activities. Currently, grants and donations are considered qualified investments, but they differ from other types of qualified investments that involve more structured financing and are more akin to lending, such as securities that are the functional equivalent of a loan, or securities backed by loans, bonds, and other equity investments. Under the proposal, a bank would only be permitted to receive CRA consideration for grants and donations directly used by the recipient for a program, project, or initiative with a primary purpose of community development in the bank's local community. For large banks, the proposed rules would also impose a 15 percent cap on the indirect costs that recipients could

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and services. As discussed below, this proposal would enhance the focus of these activities on meeting community credit needs.

[88] *See id.*

incur as a part of administering a grant or donation. The proposal would also require more transparency regarding a bank's CD activities. The agencies intend that these modifications would ensure that CD grants, like CD loans and CD investments, would provide direct financing to banks' communities, consistent with the CRA's focus. For example, a bank recently received CRA consideration for a grant to a community development organization engaged in directly providing homeownership counseling to LMI individuals and health care services to individuals experiencing homelessness. Approximately 25 percent of this grant was reported to be used for the organization's internal expenses, with the remaining share expended for direct service costs. Under the proposed rules, this grant would not qualify as a CD grant for a large bank due to the recipient using over 15 percent of its proceeds for indirect expenses.

C. Reduce Burden

As discussed in greater detail below, the agencies propose three categories of changes to the current rules to reduce burden, especially for community banks. First, the agencies propose three general asset size thresholds: (1) below $1 billion for a small bank; (2) $1 billion to $10 billion for an intermediate bank; and (3) above $10 billion for a large bank. These changes would reflect the significant growth in the asset sizes of banks since the agencies set the current asset size thresholds.[89] As a result of these changes, banks with $10 billion or less in assets (proposed small banks and proposed intermediate banks) would be subject to fewer data collection, maintenance, and reporting requirements.

Second, the agencies propose that under both the large bank lending test and the small and intermediate bank lending test, they would consider only a bank's major product line(s) when assessing its retail lending (*i.e.*, consumer, home mortgage, small business, and small farm loans). These changes would reduce regulatory burden for banks by tailoring the lending test to focus on the product lines that make up most of a bank's record of serving community credit needs, thus

[89] *See* 60 FR at 22180, 22202 (setting the small bank asset size threshold at $250 million in 1995); 70 FR 44256, 44266, 44269 (Aug. 2, 2005) (setting the large bank asset size threshold at $1 billion and introducing annual inflation adjustments).

enabling banks to better focus their resources to more effectively manage their CRA programs.

Finally, the agencies also propose to revise the public file and public notice requirements by: (1) no longer requiring a bank to provide a paper copy of the information in its public file; (2) permitting a bank to make the information in its public file available on its public website; and (3) allowing a bank to satisfy its public notice requirement by identifying the website on which the bank posts information about its CRA performance. These changes would reduce burden on banks by allowing them to use readily accessible technology to satisfy these requirements, while continuing to ensure that the public can easily access important information about a bank's CRA performance.

D. Increase Clarity and Objectivity

The proposal would also make a number of changes to the implementation of the current rules that would increase the clarity, transparency, and objectivity associated with evaluating a bank's CRA performance. These changes are in response to public feedback that the agencies have received about the provisions addressed below.

First, the agencies propose several changes with respect to CD activities. Specifically, they propose to revise the current principles-based definition of community development by clarifying when loans, investments, grants, and services qualify as CD activities. This change would largely codify and clarify current guidance on this topic. In addition, the agencies propose to codify a process under which a bank could seek agency confirmation that a CD activity (*i.e.*, a loan, investment, grant, or service with a primary purpose of community development) would receive CRA consideration. Further, they propose to clarify when an agency would provide CRA consideration for a CD activity that benefits an area other than a bank's assessment area(s) (assuming the bank has already demonstrated that it is helping to meet the credit needs of its assessment area(s)). Lastly, as discussed above, the proposal would clarify the information a bank must collect from the recipients of CD grants to ensure that the bank receives consideration.

Second, the agencies propose to make the strategic plan option a more viable and less burdensome option for banks by: (1) clarifying how to submit, amend, and implement a strategic plan; and (2) providing additional information regarding a plan's contents, particularly the measurable goals. These proposed changes also respond to public feedback, namely that the current strategic plan provisions are inaccessible, complex, and burdensome, particularly for community banks.

IV. Detailed Description of the Proposal

Set forth below is a detailed description of the proposed changes referenced above, as well as a description of other proposed conforming, technical, and clarifying changes.

A. Asset Size Thresholds

As described above, the performance tests or standards under which an agency evaluates a bank's CRA performance are generally determined by virtue of the bank's asset size.[90] The current asset size thresholds have not, however, evolved with changes in the banking industry over the past few decades, including bank consolidations. Although the CRA statute does not require the agencies to tailor the performance tests by asset size, the agencies first established a small bank category in the 1995 CRA rules and set the asset size threshold at $250 million.[91] At that time, small banks represented approximately 80.4 percent of all banks and held approximately 13.8 percent of the total industry assets.[92] Large banks represented approximately 19.6 percent of all banks and held approximately 86.2 of total industry assets.[93]

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[90] This is, however, not always the case. For some banks, the applicable test or standard is a function of the bank's business strategy (*e.g.*, wholesale or limited purpose banks or banks that elect to be evaluated under a strategic plan). Banks that are evaluated as a wholesale or limited purpose bank or under a strategic plan are also considered a small, intermediate, or large bank, as applicable, and requirements other than performance tests or standards apply to a wholesale, limited purpose, or strategic plan bank based on the bank's asset size-based category. For example, a wholesale, limited purpose, or strategic plan bank that is a large bank is subject to data collection, maintenance, and reporting requirements.

[91] Specifically, the 1995 CRA rules set the small bank threshold at $250 million in assets with an additional requirement that a small bank must also be independent or an affiliate of a holding company with less than $1 billion in total banking assets. 60 FR at 22180, 22202. The agencies removed these requirements related to a holding company's asset size from their CRA regulations in 2005. *See* 70 FR at 44256, 44264. Also in 2005, the agencies raised the asset size threshold for small banks to $1 billion, added intermediate small banks as a subset of small banks assets between $250 million and $1 billion, and provided for future indexing for inflation of both the $250 million and $1 billion threshold. *See id.* at 44266, 44269.

[92] *See* 69 FR 51611, 51612 (Aug. 20, 2004) (FDIC proposed rule).

[93] *See id.*

In contrast, using year-end 2024 and 2025 Consolidated Reports of Condition and Income (Call Report) data about the banks with CRA obligations that the agencies supervise (a total of approximately 3,577 banks), small banks that were not intermediate small banks[94] represented approximately 57.0 percent of these banks (2,040 banks) and held approximately 2.0 percent of total industry assets.[95] Comparing the 1995 data to the 2024 and 2025 data, small banks represent a significantly smaller percentage of the total number of banks and a significantly smaller percentage of total assets. The nature and degree of the change in the distribution of small banks sizes demonstrate how the banking industry has changed and why the agencies are proposing asset size threshold changes.[96]

To address the mismatch that has emerged between the current thresholds and a dynamic industry, the agencies propose to adjust the asset size thresholds for all of the banks they supervise. Specifically, the proposal would define "small bank" as a bank with less than $1 billion in total assets, reflecting an increase from the current small bank asset threshold of less than $412 million. The proposal would replace the "intermediate small bank" category with a new "intermediate bank" category for a bank with at least $1 billion and up to and including $10 billion in assets, reflecting an increase from the current intermediate small bank threshold range of between $412 million and $1.649 billion.[97] Finally, the proposal would define "large bank" as a bank with assets of more than $10 billion, reflecting an increase from the current large bank threshold of over $1.649 billion. Asset size will continue to be calculated based on a bank's

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[94] Although, under the current rules, intermediate small banks are a subset of small banks, it is appropriate to look only to small banks for purposes of comparison to the 1995 CRA rules, because small banks at that time were subject to similar performance standards (*i.e.*, a lending test without CD obligations) as small banks other than intermediate small banks under the current rules.

[95] Using year-end 2024 and 2025 Call Report data, intermediate small banks represented approximately 30.0 percent of these banks (1,060 banks) and held approximately 4.6 percent of total industry assets.

[96] The agencies have adjusted the thresholds annually since 2005 based on an inflation index, but these adjustments have not been sufficient to keep up with changes in the industry, including its overall growth and consolidation. For the most recent inflation adjustments, *see* FDIC change at 91 FR 509 (Jan. 7, 2026) and OCC change at OCC Bulletin 2025-48, "Community Reinvestment Act: Revision of Small and Intermediate Small Bank and Savings Association Asset Thresholds" (Dec. 23, 2025), *https://www.occ.gov/news-issuances/bulletins/2025/bulletin-2025-48.html*.

[97] *See id.*

assets included in Call Report data as of December 31 of a calendar year, for two consecutive calendar years, with the bank belonging to the lower asset size category that applied during either of these two calendar years.

These changes would reduce the associated data collection, maintenance, and reporting requirements for many smaller banks and would subject smaller banks to performance standards with greater flexibility, which the agencies expect would enable these banks to meet the credit needs of their communities without the burden of regulatory requirements that have not kept pace with changes in the banking industry. In addition, under the proposal, the distribution of banks of different sizes across the performance tests and standards would be substantially similar to the proportions of their distribution in 1995. Accordingly, the changes would realign the CRA regulatory framework with the original regulatory drafters' conceptions about the CRA's application to different sizes and types of banks. The agencies invite feedback regarding the methodology and data used to set thresholds for small, intermediate, and large banks.

Set forth below is a detailed discussion of each of the proposed thresholds.

Small bank threshold. Under the agencies' proposed small bank asset size threshold, the percentage of banks that qualify as small banks would significantly increase to about 79.8 percent of all banks subject to the CRA that the agencies supervise—a close alignment with the overall percentage of small banks at the time of the implementation of the 1995 CRA rules. While the percentage of total industry assets held by these banks would only increase to approximately 4.9 percent, when combined with the new category of intermediate banks (with asset sizes between $1 billion and $10 billion), together these banks would hold approximately 14.6 percent of total industry assets.[98]

One goal and effect of the proposal to raise the small bank asset threshold to up to $1 billion is to reduce the CRA regulatory burden on banks with between $412 million and $1

[98] The agencies added the intermediate small bank category of small banks to the current rules in 2005. *See* 70 FR at 44258.

billion dollars. Under the current framework, these banks are considered intermediate small banks and subject to the applicable CD test which considers the number, amount, and responsiveness of their CD loans, investments and services. As a result, when small banks transition to intermediate small banks under the current framework, their CD activities are explicitly evaluated, which typically results in these banks adjusting their CRA programs. Under the proposal, banks below $1 billion in assets would no longer be subject to the CD test.

With respect to the current annual inflation adjustment for the small bank asset size threshold, the agencies are not proposing substantive changes, and it will remain keyed to Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (not seasonally adjusted). The agencies are, however, considering an alternative approach that would align the small bank threshold with the size standard that the Small Business Administration (SBA) uses to identify small banks.[99] Under this alternative, the agencies would define a small bank using the SBA's current standard for commercial banks of $850 million (calculated as of December 31 of either of the prior two calendar years).[100] Based on year-end Call Report data for 2024 and 2025, approximately 76.1 percent of agency supervised banks that are subject to the CRA (2,721 banks) would be small banks under the current SBA standard, representing about 4.2 percent of total industry assets.

If the agencies were to cross-reference the SBA size standard in its CRA framework, the small bank asset threshold would automatically adjust when the SBA size threshold changes,

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[99] The SBA establishes small business size definitions, usually referred to as "size standards," for private sector industries in the United States to determine eligibility for Federal small business assistance. It adjusts size standards based on inflation at least once every five years and also adjusts based on industry structure. *See*, *e.g.*, 90 FR 41168, 41171 (Aug. 22, 2025). The primary factors that the SBA evaluates to examine industry structure include average firm size, startup costs and entry barriers, industry competition, and distribution of firms by size. *Id.* The SBA also evaluates small business success in receiving Federal contracting assistance under the current size standards. *Id.* These are generally the five most important factors that the SBA examines when establishing, reviewing, or revising a size standard for an industry. *Id.* at 41172. However, the SBA will also consider and evaluate secondary factors that it believes are relevant to a particular industry (such as technological changes, growth trends, SBA financial assistance, other program factors). *Id.* The SBA also considers the possible impact of size standard revisions on eligibility for Federal small business assistance, current economic conditions, the Administration's policies, and suggestions from industry groups and Federal agencies. *Id*.

[100] *See* 13 CFR 121.201. On August 22, 2025, the SBA proposed to increase the size standard for commercial banks to $925 million. 90 FR at 41271.

rather than yearly, based on CPI-W inflation adjustments. The historical difference between these two approaches is clear when changes based on the CPI-W are compared to adjustments by the SBA. For example, between December 2005 and January 2026, the agencies' small bank asset size threshold went from $250 million to $412 million, an increase of approximately 64.8 percent. During this same period, the SBA's small bank size standard for commercial banks increased from $150 million to $850 million, an increase of approximately 466.7 percent.[101]

The agencies invite comments on both the proposed small bank asset size threshold of $1 billion and the alternative proposal to align it with the SBA at $850 million, as well as other options and supporting justifications. The agencies also solicit comment on whether to continue making annual inflation-based adjustments to the small bank asset threshold based on the CPI-W or align changes with SBA adjustments to small bank size standard for commercial banks, as well as other options and supporting justifications. The agencies also intend to occasionally evaluate the proposed asset size thresholds, if adopted, to consider whether additional adjustments are needed, beyond annual inflation-based adjustments, to better reflect changes in the banking industry and invite comment on the appropriate frequency for such evaluation (*e.g.*, every 3 years; every 5 years). In particular, the agencies invite comment on whether the proposal's predictable adjustments are preferable to the SBA's less regular asset size changes, even if the proposed adjustments are less effective at keeping pace with changes in the banking industry.

The agencies are proposing additional revisions to the small bank definition. Specifically, the agencies propose that their rules would expressly state that the annual adjustment to the small bank asset threshold (as reflected in the proposed "small bank" definition) is published on the agencies' websites. Since 2020, the OCC has announced the annual changes to asset size

[101] As discussed above, the SBA small bank size standard reflects not only inflation but other variables such as the number of institutions, total industry assets, and the distribution of those institutions and assets within the SBA's size standards. The SBA small bank size standard also considers and adjusts for secular trends in the banking industry such as the overall consolidation of industry assets.

thresholds through OCC bulletins posted to OCC.gov but there is nothing in the OCC's current rule to alert a stakeholder of threshold changes. The FDIC also intends to publish the annual adjustment to the small bank asset threshold on the FDIC's website. This proposed amendment would ensure that banks and the public are informed that these asset thresholds are subject to change and direct them to the agency's website where the current thresholds are posted.

Intermediate bank threshold. The agencies are proposing to replace the defined term "intermediate small bank" with "intermediate bank," which they would define as any bank that is not a small bank with assets of $10 billion or less as of December 31 for either of the prior two calendar years.[102] Generally, intermediate banks would be those banks with assets between $1 billion and $10 billion. Based on 2024 and 2025 year-end Call Report data, approximately 636 out of the approximately 3,577 banks with CRA obligations that the agencies supervise fell within this asset size range. This would result in the inclusion of approximately 17.8 percent of all banks in the classification. However, the same intermediate bank asset size thresholds would result in 9.7 percent of total industry assets being classified as intermediate banks. In comparison to values for current intermediate small banks, 1,060 banks are intermediate small banks, representing about 29.6 percent of all banks in the classification and 4.6 percent of total industry assets.

In setting the intermediate bank asset threshold cap at $10 billion, the agencies note that Congress has used this figure for a number of relevant thresholds. For example, in the Dodd-Frank Act, it imposed certain requirements on banks with greater than $10 billion in assets and declined to impose other requirements on banks with $10 billion or less in assets.[103] The agencies

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[102] In addition to replacing the current "intermediate small bank" definition with a proposed "intermediate bank" definition, the agencies are proposing a number of additional technical and conforming changes to the CRA framework. Among other things, these changes would subject intermediate banks to the same performance tests or standards that are currently applicable to intermediate small banks.

[103] *See*, *e.g.*, 12 U.S.C. 5515(a) and 5516(a); 15 U.S.C. 1693o-2(a)(6). Congress has also referenced $10 billion in assets in subsequent legislation providing regulatory relief to certain financial institutions. *See*, *e.g.*, Pub. L. 115-174, 132 Stat. 1296 (2018).

are using this same threshold in their CRA rules to differentiate between intermediate and large banks.

The agencies are aware that, under the current framework, there is an increased regulatory burden and associated cost when a bank moves from one size category to a larger one (*e.g.*, from the intermediate small bank to the large bank category). Although current intermediate small banks and large banks are evaluated on many of the same CRA activities, the three tests applicable to large banks are more comprehensive in scope and, as a result, tend to impose larger compliance costs on banks seeking to maintain a similar level of performance.[104] In addition, large banks are subject to data collection, maintenance, and reporting requirements while small banks, including intermediate small banks, are not. The agencies intend that the proposed changes regarding intermediate banks would relieve regulatory burden for these banks and would better align bank categories with the historical distribution of banks subject to CRA under the 1995 CRA rules.

The agencies are also considering an alternative intermediate bank asset threshold cap of $3.252 billion as of December 31 of either of the prior two calendar years. This figure comes from the OCC's 2020 CRA rule in which the intermediate bank cap was $2.5 billion,[105] adjusted for inflation since June 2020 using the CPI-W, not seasonally adjusted.[106] If the agencies were to finalize rules using this alternative, they would adjust it further for any additional inflation between the proposal and issuance of any final rule.

The agencies invite comments on all aspects of the proposed intermediate bank definition and alternative, as well as other options, such as retaining the current asset size threshold that applies to intermediate small banks. Because the proposed intermediate bank threshold is aligned

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[104] Under the current CRA rules, small banks, including intermediate small banks, may elect to be evaluated under the lending, investment, and service tests that are generally applicable to larger banks if they collect the data required under 12 CFR __.42. *See* current 12 CFR __.21(a)(3). The proposed rules would permit small banks and intermediate banks to elect to be evaluated under the lending, investment, and service tests that would generally be applicable to large banks if they collect the data required under 12 CFR __.42.

[105] 85 FR at 34794.

[106] This calculation is based on CPI-W data available for the month of April 2026.

with other thresholds that do not adjust and is much higher than the current threshold for intermediate small banks, the agencies are not proposing annual adjustments but could consider adjustments as part of a future rulemaking, if warranted. The agencies invite comment on this decision as well.

Large bank threshold. The agencies are proposing to define "large bank" as a bank with more than $10 billion in assets as of December 31 of both of the prior two calendar years. Using 2024 and 2025 year-end Call Report data, approximately 2.4 percent of banks (86 banks) would have been large banks under this definition and held 85.4 percent of total industry assets. Given that in 1995, "large banks" held approximately 86.2 percent of total industry assets, this proposed definition would align with the historical distribution.[107]

The agencies invite comments on all aspects of the proposed large bank definition, as well as other options such as retaining the current implicit concept and asset threshold for large banks.

Request for Feedback

Question 1: To better align with agency policies that establish an asset size of less than $30 billion as a threshold for certain supervisory approaches, such as being considered a community bank or being subject to the continuous examination process,[108] should the agencies consider adjusting the intermediate bank asset size threshold to include all banks with an asset size of less than $30 billion that do not qualify as small banks? If the agencies establish $30 billion as the appropriate threshold to delineate between intermediate banks and large banks,

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[107] It should be noted that the current rules have never actually defined "large bank." Instead, their existence has been implied for banks that do not meet the "small bank" definition, which includes "intermediate small banks." Likewise, the applicable low end of the asset threshold for large banks has been implicit in the threshold for intermediate small banks. In this rulemaking, the agencies propose to make express that which has, to date, been implied.

[108] *See*, *e.g.*, OCC News Release 2025-89 (Sept. 18, 2025), *https://www.occ.gov/news-issuances/news-releases/2025/nr-occ-2025-89.html* (identifying "community banks" as institutions with up to $30 billion in assets); Then-Acting Chairman Travis Hill, Testimony, Committee on Financial Services, U.S. House of Representatives (Dec. 2, 2025), *https://www.fdic.gov/news/speeches/2025/oversight-prudential-regulators* ("The FDIC recently raised the threshold for presumptive inclusion in the continuous examination process from $10 billion to $30 billion in assets, while retaining the ability to, on occasion, include a bank below $30 billion in assets if warranted."); 91 FR 10491 (Mar. 4, 2026) (OCC Community Bank Licensing Amendments final rule).

should the agencies also adopt a larger threshold for small banks, such as the $10 billion currently proposed as the intermediate bank threshold?

Question 2: Should the agencies clarify in the rules that designation as a wholesale or limited purpose bank or election of a strategic plan does not override the bank's asset-based definition (*e.g.*, a bank can be both a large bank and a wholesale bank)?

Question 3: Should the final rules include a definition for "assets" or to be used in setting asset size thresholds and assessing a bank's position relative to these thresholds? For example, should the agencies define "assets" to mean a bank's total assets as reported in Schedule RC of the Consolidated Reports of Condition and Income (Call Report) as filed under 12 U.S.C. 161, 1464, or 1817, as applicable, or Schedule RAL of the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks as filed under 12 U.S.C. 1817 or 3102(b) or (c)(5), as applicable?

B. Performance Tests

The current rules, as discussed above, set forth general information about the CRA performance tests and standards. For large banks, the applicable performance tests are a lending test (in § __.22), an investment test (in § __.23), and a service test (in § __.24). Small banks, including intermediate small banks, are subject to performance standards that include a lending test, and, for intermediate small banks, there is also a CD test (all in § __.26). Wholesale and limited purpose banks are subject to a specialized CD test (in § __.25).

The proposal would retain this general framework for the CRA performance tests and standards. Under the proposal, large banks would continue to be subject to the lending test, investment test, and service test and wholesale and limited purpose banks would continue to be subject to a specialized CD test. Generally, the proposal would also retain the current performance standards for small banks but would retitle § __.26 and the applicable tests, as appropriate, to refer, separately, to small banks and intermediate banks.[109]

With respect to the requirements of the performance tests and standards themselves, the agencies are proposing targeted changes that would tailor CRA examinations to: (1) focus on the statutory mandate of assessing a bank's record of meeting community credit needs; (2) more closely align with a bank's business model; and (3) reduce burden. As discussed in detail below, these targeted changes would, among other things:

- Base a bank's retail lending evaluation on its major product lines, regardless of the bank's asset size;
- Prescribe standards to ensure that the agencies conduct meaningful assessments of banks' lending activities;
- Clarify that the evaluation of a bank's CRA performance includes:
    - The range of retail credit services, as opposed to any retail deposit services;
    - CD activities and retail banking services as part of performance context, to the extent that activities and services are not considered under another performance test; and
    - The responsiveness of all retail and CD activities;
- Adjust small bank and intermediate bank performance standards regarding written complaints;
- Allow an intermediate bank to receive a "satisfactory" or "outstanding" rating overall, provided that it receives at least a "satisfactory" rating on the lending test; and
- Modify how the agencies consider CD activities, as discussed in section IV.C of this SUPPLEMENTARY INFORMATION.

[109] *See supra* section IV.A of this SUPPLEMENTARY INFORMATION (describing small banks and intermediate banks under the proposal). As needed, the agencies are also proposing conforming changes throughout their CRA rules to amend current references to refer to "intermediate banks" in lieu of "intermediate small banks."

Retail lending product lines. Under the current rules, most banks are evaluated based on their retail lending, with large banks evaluated under the lending test in § __.22, and small banks, including intermediate small banks, under the small bank lending test in § __.26(b).[110]

For purposes of CRA, retail lending refers to home mortgage, small business, small farm, and consumer lending (collectively, retail lending product lines). Large banks are generally evaluated on home mortgage, small business, and small farm lending and, at the bank's option or if consumer lending constitutes a substantial majority of its business, they are also evaluated on their consumer lending in one or more of the following categories: motor vehicle, credit card, other secured, and other unsecured loans.[111]

In contrast, small banks, including intermediate small banks, are evaluated only with respect to those retail lending product lines that are considered to be their major product lines. Examiners select a small bank's major product lines for evaluation based on a review of relevant information, including the retail lending product lines where the bank did the most lending by dollar amount and loan count. If consumer loans are selected, examiners may either evaluate all of a small bank's consumer loans together or select a category of consumer lending (*e.g.*, credit card or motor vehicle) if that category is deemed to constitute a major product line.

The agencies propose adopting a major product line approach for all banks and are considering two alternatives, both of which are reflected in the proposed regulatory text. Under the first alternative (Option 1), the agencies would generally use a quantitative, bank level approach to evaluate a bank's retail lending in two of the four retail lending product lines (home

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[110] As discussed in this section of this SUPPLEMENTARY INFORMATION, wholesale and limited purpose banks are not evaluated based on their retail lending activities. Further, the agencies would only evaluate a bank under a strategic plan for its retail lending activities to the extent it includes retail lending goals in its plan.

[111] Under the current large bank lending test, a bank's consumer lending is evaluated at the bank's option or if consumer lending constitutes a "substantial majority" of its business. *See* current 12 CFR § __.22(a). In the CRA Interagency Questions and Answers, the agencies have interpreted "substantial majority" to be so significant a portion of a bank's lending activity, by number and dollar volume of loans, that the lending test evaluation would not meaningfully reflect its lending performance if consumer loans were excluded. *See* Q&A § __.22(a)(1)—2. Generally, the agencies have considered consumer lending to constitute a substantial majority where consumer lending makes up the majority of a bank's overall business by dollar and number of loans. *See id.*

mortgage, small business, small farm, and consumer lending). The two product lines evaluated would be considered the bank's major product lines. Under the second alternative (Option 2), the agencies would use an assessment area level approach that is both qualitative and quantitative to determine a bank's major product lines, similar to the current rules' methodology for determining major product lines for small banks, including intermediate small banks. Under either proposed approach, the agencies would only consider consumer lending to be a major product line if consumer lending constitutes a majority of the bank's retail lending by both dollar amount and loan count, or at the bank's option.

Under Option 1 for proposed new paragraph § __.21(g), an agency would select the two product lines based on a bank's total retail lending activity, determined at the bank level and based on both loan count and dollar volume during the evaluation period.[112] This would be the two largest product lines by dollar volume and loan count, as set forth in proposed Appendix C, provided the bank makes loans in at least two of the product lines. If a bank makes loans in only one product line, the agency would only evaluate the bank in that product line.

As noted above, even if consumer lending is one of the bank's two largest product lines by dollar volume and loan count, the agencies would only evaluate consumer lending if the bank's consumer loans constitute more than 50 percent of its retail lending by both dollar volume and loan count (*i.e.*, majority consumer lender) or at the bank's option.[113] If consumer lending is among the two largest product lines but this majority consumer lender standard is not met, the agency would not evaluate the bank's consumer lending and would instead evaluate the largest two product lines of home mortgage, small business, and small farm lending. The proposal would treat major product lines in consumer lending differently than home mortgage, small

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[112] Under the proposal, "consumer loan" would mean a loan to one or more individuals for household, family, or other personal expenditures as defined in Schedule RC-C of the instructions for preparation of Call Reports, including the categories of credit cards, other revolving credit plans, automobile loans, and other consumer loans. The proposal would revise this definition to include a cross-reference to the Call Report instructions instead of including the text of those instructions.

[113] This determination would not be based on averaging dollar volume and loan count, as provided in proposed appendix C.

business, and small farm lending because of differences in the data collection requirements for consumer lending for large banks, as discussed below.

The agencies intend that the quantitative major product line standard described in Option 1 would help ensure that a bank's CRA examination is tailored to its retail lending business model to provide a consistent and objective standard for when the agencies would assess specific product lines. To provide a consistent evaluation of lending across assessment areas, the agencies would assess a bank's major product lines at the bank level. This approach would also resolve issues that have arisen under the current rules where the requirement for the agencies to evaluate home mortgage, small business, and small farm lending has resulted in the assessment of performance in product lines that are not a meaningful component of a bank's business model. This has increased burden for banks that feel the need to manage their lending activity in each of these product lines despite the fact that they do not meet the proposed major product line standard are rarely a significant factor in the agencies' conclusions on a bank's CRA performance. Based on the agencies' supervisory experience and feedback received, this can result in banks expending resources that could otherwise have been deployed towards more impactful activities. As discussed below, proposed section § __.21(g) provides the standards the agencies would apply for determining how to assess a bank's retail lending in its major product lines at the assessment area level.

The agencies considered that reducing the product lines that they evaluate as retail lending under the applicable lending test could raise concerns that banks would no longer be incentivized to engage in those activities going forward, which could have a negative impact on communities. However, the agencies preliminarily believe the potential negative impact is unlikely to be significant because, in many instances, banks provide those loans primarily for business reasons rather than to address CRA obligations. The agencies also note that any small reduction in lending may be outweighed by the benefits of reducing burden for banks, which would allow them to focus CRA resources on other retail lending or CD activities. Further, as discussed in section IV.C of this SUPPLEMENTARY INFORMATION, as a result of a change in the definition of CD loan, the proposal would allow banks to receive consideration for loans in non-major product lines that meet the definition of community development. Based on other proposed changes to the definition of affordable housing and economic development, the proposed change to the definition of CD loan would mean that certain home mortgage, small business, and small farm loans that were previously considered as retail loans may now be considered as CD loans. This would modify the form of CRA consideration that these loans receive but would still provide a potential incentive for banks to engage in these activities.

Alternatively, the agencies are considering a standard that is both qualitative and quantitative to determine a bank's major product lines (Option 2). Under Option 2 for proposed new paragraph § __.21(g), the agencies would assess a bank's retail lending in major product line(s) based on certain considerations at the assessment area level. Under this approach, a bank could have more or less than two major product lines. Whether home mortgage, small business, small farm, or consumer lending would be a major product line in an assessment area would be based on: (i) the bank's overall lending volume and business strategy; (ii) the bank's capacity to lend in that assessment area; and (iii) the extent to which lending in the product line meaningfully contributes to the bank's record of meeting the credit needs of that assessment area.

Under Option 2, an agency would select major product lines in each assessment area through consideration of a bank's overall lending volume and business strategy; a bank's capacity to lend in that assessment area; and the extent to which lending in the product line meaningfully contributes to the bank's record of meeting the credit needs of that assessment area. For example, a bank that is primarily a home mortgage lender (as determined by overall lending volume and business strategy) would have home mortgage loans considered as a major product line in all assessment areas. If overall, however, the bank does not have a significant volume of small farm lending, but in the bank's nonmetropolitan assessment area the bank is a significant provider of small farm loans and the small farm loans meaningfully contribute to the bank meeting the assessment area credit needs, the agencies could factor that information into their qualitative determination of the bank's major product lines. In that instance, small farm loans would be considered as a major product line in the nonmetropolitan assessment area along with home mortgage loans. This approach would maintain flexibility in the lending test evaluation by considering different community credit needs and bank lending product emphases in different assessment areas.

As proposed, the major product line standard would apply to large, intermediate, and small banks. The agencies also are considering whether to retain the current standard for small and intermediate banks, which permits more discretion if Option 1 is adopted.

Request for Feedback

Question 4: With respect to Option 1 for the major product line standard, should the agencies specify a de minimis amount of lending that would not count as making loans in a product line? For example, should the agencies consider whether a bank did not make 30 loans in the product line overall or 30 loans in the product line in any assessment area? Should the agencies use the proposed definition of "incidental basis" to find that a bank does not make loans in a product line if it only makes loans in that product line on an incidental basis?

Question 5: Should the agencies consider consumer lending—

a. By type of consumer loans, rather than in the aggregate, when consumer loans constitute a major product line?

b. When consumer loans account for less than a majority of retail lending but is one of a bank's largest two product lines? In this circumstance, should the agencies permit the optional consideration of consumer lending?

c. At the bank's request, regardless of whether the consumer loans constitute a major product line?

Question 6: Should the agencies rely on dollar volume, loan count, or both to determine a bank's major product line(s), and, if so, should the agencies do so consistent with the methodology in proposed appendix C?

Question 7: If the agencies adopt Option 1, should the agencies determine a bank's major product lines by assessment area, as opposed to at the institution level as proposed?

Lending test borrower distribution. The current lending test considers the distribution, particularly in a bank's assessment area(s), of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on borrower characteristics, including the number and amount of retail loans to low-, moderate-, middle-, and upper-income individuals and small businesses and small farms.[114] This language suggests that the agencies may consider borrower distribution in a geographic area beyond a bank's assessment area(s). In guidance, the agencies have addressed when they will currently consider loans (other than CD loans) made outside a bank's assessment area(s) and have indicated consideration will be given for loans to low- and moderate-income persons and small business and farm loans outside of a bank's assessment area(s), provided the bank has adequately addressed the needs of borrowers within its assessment area(s).[115]

The proposal would modify the borrower characteristics provision of the lending test and make conforming changes in proposed appendix A to omit language that would consider borrower characteristics particularly in a bank's assessment area(s). The agencies intend that this change would mean that the agencies would only consider borrower characteristics in a bank's assessment area(s) and would supersede Q&A § __.22(b)(2) & (3)—4. The agencies find that the current rules do not adequately explain when and how the agencies may consider borrower

[114] *See* current 12 CFR § __.22(b)(3). *See also*, *e.g.*, current 12 CFR __, appendix A, paragraph (b)(1)(i)(D).

[115] Q&A § __.22(b)(2) & (3)—4 (also providing this consideration to small banks, including intermediate small banks).

characteristics outside of a bank's assessment area(s). Consideration of retail lending outside of a bank's assessment area(s) would exceed the agencies' statutory authority.

Limited purpose bank category. In addition to the proposed major product line standard, the agencies are considering whether to eliminate the category of limited purpose banks. By definition, a limited purpose bank would be a consumer lender (*i.e.*, a bank that offers only a narrow product line, such as credit card or motor vehicle loans). If a bank is instead not in the business of extending retail loans to retail customers, it would be a wholesale bank. Because the current rules do not require the evaluation of consumer lending in most circumstances, and the lending test focuses on assessing home mortgage, small business, and small farm lending, banks that meet the current definition of limited purpose bank may request that designation and be examined solely on the basis of their CD activities. Under the proposal, however, banks would be evaluated based on their consumer lending if that lending was determined to be a major product line for the bank, as discussed above. Therefore, the agencies could apply the proposed lending test to banks that would be limited purpose banks under the current or proposed rules. The agencies recognize, however, that this may be a significant change for a handful of banks that the agencies currently evaluate only under the CD test for wholesale or limited purpose banks and now would be evaluated under the otherwise applicable tests or standards based on their asset size category, including on their consumer retail lending. Even if the agencies were to retain the limited purpose bank definition and designation, because seeking a limited purpose designation is optional, under the proposal, banks that meet the limited purpose bank definition could elect not to seek such a designation, in which case, the bank would be examined under the applicable test or standard based on their retail lending. The agencies invite comment on the proposed changes to the consideration of consumer lending and how those proposed changes relate to the definition of limited purpose bank.

Meaningful assessment. The agencies are proposing a new § __.21(h) to discuss their approach to assessing a bank's major product lines in an assessment area of the applicable lending test. Proposed § __.21(h) would provide that, if possible, the agencies will evaluate a bank's lending performance under the lending test based on a number of retail loans that allows the agency to perform a meaningful analysis. This provision would apply to the agencies' consideration of a bank's major product lines, discussed above, for each performance criterion in the applicable lending test.

The agencies generally believe that using 30 or more loans, whether a sample or the entire population of loans, will result in a meaningful analysis of the bank's lending performance. In statistical analysis, at least 30 observations are a general standard for a large sample because the mean of 30 randomly drawn values from a population will have a distribution that is approximately normal.[116] Therefore, the proposal would provide that the agencies will consider 30 loans from a product line to be a sufficient number of loans to perform a meaningful analysis under any applicable performance criterion.[117]

Given that 30 loans are not always available for analysis under each performance criterion, the agencies are also including a provision in proposed § __.21(h) that would allow them to consider less than 30 loans if they determine that a smaller number of loans would allow for a meaningful assessment. This determination would be based on examiner judgment and the appropriate agency's supervisory experience. For instance, for small banks, the agencies have effectively used samples of 20 loans in the past with meaningful results. This provision would allow the agencies to consider a smaller number of loans with the understanding that the resulting analysis may have less precision and a larger risk of random variation (*e.g.*, that one loan will cause a large change in the analysis). In addition, in the agencies' experience there is a point at which the number of loans is small enough that it does not support a meaningful

[116] *See* Sheldon M. Ross, Introductory Statistics 398 (4th ed. 2017); Robert V. Hogg *et al*., Probability and Statistical Inference 303 (9th ed. 2015).

[117] For some performance criteria (*e.g.*, borrower and geographic characteristics under the lending test), this applies to the number of loans in a major product line in an assessment area. For other performance criteria (*e.g.*, the percentage of loans located in a bank's assessment area(s)), this would apply to the number of loans in a product line overall.

analysis. For example, if a bank only made five home mortgage loans in an assessment area and one of those loans was to an LMI individual, concluding on the fact that 20 percent of the bank's home mortgage loans went to LMI individuals would not be meaningful given that 20 percent is a reference to a single loan. For that reason, the agencies are also proposing a provision that would explain how they will conclude on a bank's lending performance when a meaningful assessment of the bank's loan data cannot be performed.

If there is insufficient loan data to perform a meaningful assessment of a bank's lending performance for a particular performance criterion, the agencies are proposing that they will assess the bank's lending performance based on other performance criteria for which a meaningful assessment may be conducted or consideration of applicable performance context factors described in § __.21(b) that inform the bank's lending activity in the assessment area. This provision is intended to allow the agencies to conclude on a bank's lending test performance by: (1) only considering those performance criteria that the agencies can conduct a meaningful assessment of using the available lending data, such as the loan-to-deposit ratio and the in-out ratio; (2) only considering the performance context factors that inform the bank's lending activity in the applicable assessment area; or (3) a combination of both the performance criterion with meaningful assessments and applicable performance context.

The agencies believe that the proposed meaningful analysis provision will improve consistency in the application of the applicable performance tests and standards while still allowing for flexibility to account for bank-specific and assessment area-specific factors that influence a bank's retail lending activity. The agencies believe this provision also supports the proposed major product lines approaches (Option 1 and Option 2), by explaining how the agencies will consider variations in lending across those product lines at the assessment area level. Taken together, the agencies believe that the proposed meaningful analysis provision is consistent with the agencies supervisory experience for the best practices in assessing lending performance while clarifying consideration of retail lending under the current rules and new aspects of the proposal.

Range of retail services. Under the current rules, the agencies assess a bank's retail banking services as part of the service test in § __.24.[118] Specifically, the service test includes a performance criterion that considers "[t]he range of services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies."[119] Under the current Interagency Questions and Answers, the agencies have explained that this examination includes "services generally offered at [the bank's] branches, including their hours of operation; available loan and deposit products; transaction fees, as well as descriptions, where applicable, of material differences in the availability or cost of services at particular branches."[120] The agencies also consider additional information provided by the bank, including "data regarding the costs and features of loan and deposit products."[121]

Under the proposal, the agencies would modify the retail banking performance criterion in current § __.24(d)(4) (proposed § __.24(c)(4)) by adding the term "credit" to specify that the agencies would consider only the "[t]he range of *credit* services provided in low-, moderate-, middle-, and upper-income geographies and the degree to which the services are tailored to meet the needs of those geographies." (emphasis added). In the agencies' view, this limitation is appropriate in light of the agencies' statutory mandate to assess a bank's "record of meeting the credit needs of its entire community." The proposed rules would supersede the Interagency Questions and Answers to the extent they provide that the agencies' evaluation of a bank's retail banking services includes deposit products.

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[118] *See* current 12 CFR __.24(d). Under the current rules, retail banking services tailored to the needs of LMI individuals may be considered as CD services in certain circumstances. *See*, *e.g.*, Q&A § __.26(c)(3)—1 (consideration of retail banking services for intermediate small banks).

[119] Current 12 CFR __.24(d)(4).

[120] Q&A § __.24(d)(4)—1.

[121] *Id.*

Responsiveness. The proposal would add a new provision addressing the qualitative factors considered in assessing a bank's CRA performance. Specifically, the proposal would codify and clarify certain guidance in the Interagency Questions and Answers in proposed § __.14, Responsiveness. Under the current rules, responsiveness is referenced in several of the performance criteria used to assess a bank's CD activities; however, the current regulatory framework is qualitative and responsiveness and has been incorporated into the consideration of the retail components of the performance tests and standards.[122] For example, in assessing retail lending activities the agencies have considered a bank's use of flexible lending products to meet community credit needs.

The agencies considered how qualitative considerations have factored into their assessment of bank's CRA performance historically and are clarifying in the proposal that responsiveness is a factor considered with respect to both retail and CD activities. As such, the performance tests and standards were revised to include a new or amended, as applicable, performance criterion regarding the responsiveness of the bank's retail loans and community development loans in meeting community credit needs. Section IV.C of this SUPPLEMENTARY INFORMATION provides further discussion of proposed § __.14 and related provisions, particularly as those provisions relate to CD activities.

Performance context. As part of their current assessment of CRA performance, the agencies consider certain performance context factors in applying the applicable performance tests and standards and also when considering whether to approve a proposed strategic plan.[123] The proposal would largely retain the current rules' performance context provision in § __.21(b). The agencies are proposing, however, to add a new performance context factor to proposed § __.21(b). The new performance context factor would provide that the agencies would consider

[122] *See, e.g.*, current 12 CFR __.25 and appendix A, paragraph (b)(1); Q&As §§ __.22(a)—1 and __.22(b)(5)—1.

[123] *See* current 12 CFR __.21(b).

a bank's CD activities and retail banking services, to the extent not considered under another performance test. The proposed performance context factor would codify how the agencies have applied certain provisions of the current rules.

In practice, the agencies have considered "other lending-related activities" described in current § __.26(b) as performance context under the small bank lending test. The agencies are proposing to include the new performance context factor in proposed § __.21(b) to better reflect how these activities are considered in CRA examinations. Other lending-related activities inform the agencies' assessment of the retail and CD lending activities considered directly under the performance criteria in the lending test by providing context that explains a bank's lending capacity. The agencies also propose conforming revisions to remove the current references to "other lending-related activities" included in § __.26(b).

Small and intermediate bank performance standards. The agencies are proposing to remove the consideration of a small or intermediate bank's record of taking action in response to written complaints about its performance in helping to meet the credit needs in its assessment areas (current § __.26(b)(5)). It is the agencies' view that this factor would be duplicative of considerations contemplated with respect to bank performance under new provisions in the proposal. In particular, proposed clarification regarding responsiveness (proposed § __.14), a factor that would apply across all bank performance tests, renders this aspect of small banks' performance standards redundant.

Intermediate bank ratings. To better focus CRA examinations on lending performance for intermediate banks and to improve flexibility, the agencies are also proposing to modify a limitation in the current rules for when an intermediate bank (currently, an intermediate small bank) may receive an overall rating of "satisfactory." Specifically, the agencies are proposing an amendment to paragraph (d)(3) of appendix A regarding ratings. In its current form, paragraph (d)(3) of appendix A requires an intermediate small bank to receive a rating of at least "satisfactory" on both the lending test and the CD test to receive an overall rating of "satisfactory." The agencies are proposing a change so that intermediate banks must receive a rating of at least "satisfactory" on only the lending test to receive an overall rating of "satisfactory."

In comparison to the current approach in appendix A, the proposed amendment is intended to allow stronger performance on the lending test to compensate for weaker performance on the CD test, thereby emphasizing lending performance consistent with the CRA's statutory focus on credit needs. Since intermediate banks do not know the exact performance rating they will receive before it is assigned, the agencies do not believe that it will create a strong incentive for banks to intentionally scale back their performance on either the lending test or the CD test. Instead, the agencies believe that the more likely outcome is that banks will have improved incentives to perform better on both tests because there is no longer an artificial constraint that prevents banks from receiving an overall rating of "satisfactory" without a "satisfactory" rating on both tests.

Other changes to performance tests. The agencies are proposing several other clarifying changes regarding performances tests and appendix A—Ratings. Specifically, the agencies are proposing conforming edits throughout appendix A to account for other proposed changes to the regulations (*e.g.*, to address changes related to "responsiveness" and including considerations like innovativeness and flexibility within the consideration of responsiveness). The agencies are also proposing to remove factors that require specific consideration of serving credit needs of highly disadvantaged areas and low-income people. Highly disadvantaged areas is not a defined term and the agencies believe this factor is already considered in factors related to borrower and geographic characteristics.

C. CD Activities

Under the current rules, the agencies consider CD activities (*i.e.*, CD loans, qualifying investments, and CD services) across several tests: the lending, investment, and service tests for large banks; the CD test for wholesale or limited purpose banks; the CD test for intermediate small banks; and for banks evaluated using strategic plans to the extent a bank's plan includes goals for CD activities. Consideration of CD activities has been a component of the agencies' CRA rules since they were first promulgated in 1978.[124] Under the proposal, the agencies would revise the definitions of CD loan, qualifying investment, and CD service to improve consistency and clarity in how CD activities are treated across tests.

The agencies would add a new definition of "community development grant." As explained in greater detail below, grants and donations (including in-kind donations) are currently included within the definition of "qualifying investment." Under the new definition, however, the agencies would restrict grants and donations that may be considered for CRA credit to those that a bank can demonstrate will be directly used by the recipient to deploy the funds to meet community credit needs. For large banks, the proposed rules would further require that the grant or donation be directed to a recipient whose indirect costs for administering the grant or donation would not exceed 15 percent. In the agencies' experience, inefficient use of funds is most common in grants and donations, particularly because middlemen are more frequently relied upon to indirectly deploy funds. This results in increased indirect costs and less funds directly serving LMI individuals, LMI census tracts, small businesses, and small farms.

As described below, the agencies would also add a new section to their CRA rules to identify when a CD activity would be considered responsive, a qualitative factor under applicable tests, and would make other revisions to standardize the discussion of qualitative factors in each test.

CD loans. Under the current rules, a CD loan is a loan that has as its primary purpose community development and, except in the case of a wholesale or limited purpose bank, has not been reported or collected by the bank for its assessment as a retail loan evaluated under CRA and benefits the bank's assessments areas or the broader statewide or regional area. The proposal

[124] *See* 43 FR at 47148 (evaluating the bank's participation, including investments, in local CD and redevelopment projects or programs in § __.7(h) of the 1978 CRA rule).

would generally retain this definition with certain modifications. First, the definition would clarify that a CD loan also includes a legally-binding commitment to lend. In the CRA context, the agencies regard a legally binding commitment to lend as the functional equivalent of a loan because the bank is bound to provide the funding, which limits the bank's resources available for other activities. Second, the revised definition clarifies that a CD loan must not have been considered by the appropriate Federal financial supervisory agency as a part of the bank's assessment as a home mortgage, small business, small farm, or consumer loan unless the loan is for a multifamily dwelling or for a low-cost education loan. This revision would have two effects: (1) it would allow a low-cost education loan to be considered as both a retail loan and a CD loan, akin to multifamily affordable housing under current guidance[125] and (2) it would mean that some lending that is a retail loan but not included in a major product line could be considered as a CD loan, to the extent it otherwise met the CD definition. This revision would extend to all banks a modified form of the treatment provided to intermediate small banks under the Interagency Questions and Answers.[126] For example, if small farm lending is not considered one of a bank's major product lines, certain small farm loans may qualify as a CD loan under the economic development category of community development.[127] Finally, the definition in the proposal provides that, for all banks, a CD loan would need to benefit the bank's assessment area(s), except as provided in proposed § __.13(e). This revision would expand geographic consideration of CD activities in some instances, as explained in the CD activities outside assessment area(s) discussion in section IV.E of this SUPPLEMENTARY INFORMATION.

In addition, the agencies are proposing a new § __.21(f) to clarify that, similar to CD investments, the agencies will consider prior period CD loans. This provision would create parity

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[125] *See* current 12 CFR __.12(h)(2)(i); Q&A § __.42(b)(2)—2.

[126] *See* Q&A § __.12(h)—3.

[127] The agencies recognize that if loans currently considered as retail loans were able to be considered CD loans then banks would need to provide additional documentation during a CRA examination to demonstrate that the loans qualify as CD loans. Additionally, large banks would need to collect and maintain data for these CD loans as explained in proposed § __.42(a)(2) and would need to report data for these loans as explained in proposed § __.42(b)(2).

with the current treatment of CD investments. The agencies believe that this provision appropriately encourages longer-term lending. By considering the amount of prior period CD loans, as well as CD investments, in addition to the new originations and purchases, the proposal would provide an incentive for banks to extend the length and type of financing needed for a project. The agencies invite comment on whether a prior period CD loan or CD investment should receive consideration based on whether it is on a bank's balance sheet at the (1) end of the year, (2) end of the evaluation period, or (3) an alternative. The agencies also invite comment on whether consideration for CD loans should be limited to one time per evaluation period even if the CD loan is renewed multiple times during an evaluation period so that renewal decisions and loan terms are not influenced by their consideration under this rule.

Request for Feedback

Question 8: Does annual or evaluation period-based consideration better serve the goal of encouraging banks to meet the credit needs of their communities better than the other?

CD investments. Under the current rule, a qualified investment is a lawful investment, deposit, membership share, or grant that has community developments as its primary purpose.[128] Under the proposal, the agencies would change the term "qualified investment" to "community development investment" for clarity and to create alignment with CD loans and CD services.

The agencies would also redefine the term "community development investment" to mean a security or a deposit or membership share in a financial institution, including a legally-binding commitment to invest, that has as its primary purpose CD; is permissible under applicable laws and rules; and, except as specified in § __.13(e), benefits the bank's assessment area(s). The agencies intend the term "security" to provide greater clarity regarding what the agencies mean by an "investment" and would broadly include equity investments as well as debt

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[128] *See* current 12 CFR __.12(t).

instruments like bonds.[129] The term would not include loans, which are considered for CRA purposes under applicable lending tests. The proposed definition would also clarify that, to qualify as an investment, a deposit or membership share would need to be in a financial institution, which is consistent with the agencies' intended meaning of these terms under the current rule.[130] For example, membership shares in a low-income credit union may qualify as a CD investment. This is distinct from membership fees in a community group, which would not qualify. The proposal would remove grants from the scope of the term CD investment and would add a new "community development grant" definition, discussed below.

The agencies would also replace the qualifier that a CD investment be "lawful" with the requirement that an investment be permissible under applicable laws and rules. This requirement is necessary because the CRA does not provide a separate source of investment authority for banks. As described regarding CD loans, the cross reference to § __.13(e) provides for expanded geographic consideration of CD activities in some instances.

CD grants. Under the current rule, qualified investments include both structured equity and debt investments, such as state and municipal affordable housing bonds and certain mortgage-backed securities, and unstructured activities, such as grants and donations to non-profit entities. In their supervisory experience, the agencies have found that the latter type of activities may be susceptible to rent extraction, in which entities divert funds away from local communities, including LMI individuals, small businesses, and small farms. This may be particularly true when banks provide indirect grants (*i.e.*, grants to organizations that do not directly provide services to local communities but provide financing to other non-profit organizations) because such grants may increase the total amount of funds that go to aggregate

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[129] *See* 15 U.S.C. 77b(a)(1) and 78c(a)(10) (defining "security" for the Securities Act of 1933 and the Securities Exchange Act of 1934).

[130] *See* 60 FR at 22161.

overhead costs and thus are not available to contribute directly to community development projects or initiatives.

Accordingly, the proposal would narrow the circumstances in which banks may receive CRA consideration for grants or donations to ensure that a grant or donation would directly benefit the bank's assessment area(s). Specifically, the agencies are proposing to add a new "community development grant" definition to proposed § __.12 and define the term to mean a grant or donation that: (1) will be directly used by the recipient for a program, project, or initiative with a primary purpose of community development; (2) except as specified in § __.13(e), benefits the bank's assessment area(s); and (3) for a large bank, is provided to a recipient whose indirect costs for administering the grant or donation do not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard. The agencies believe this third requirement will help ensure the vast majority of community development grant dollars are used to benefit the large bank's assessment area, rather than the organization administering the community development program, project, or initiative. The agencies also believe this requirement would better prevent rent extraction and ensure the vast majority of grant funds are provided directly to the large bank's local communities.

The agencies are proposing a 15 percent limit on indirect costs based on guidance from the Office of Management and Budget (OMB) and propose to calculate those costs using the OMB's Uniform Guidance for Federal Awards, which is an established standard that is applied to recipients of Federal grants and awards. Under the proposal, banks could provide grants and donations to entities that directly engage in affordable housing, civic assistance, economic development, or revitalization and stabilization, as discussed in section IV.D of this SUPPLEMENTARY INFORMATION. For example, a bank could receive CRA consideration for a grant or donation to a non-profit organization that develops and builds owner-occupied housing for LMI individuals or provides disaster relief services in a designated disaster area. A bank could also receive CRA consideration for a grant or donation to a local non-profit organization that provides technical assistance to small businesses or that provides financial literacy programming to the community. A grant or donation to a non-profit organization made by a large bank to a recipient whose indirect costs to administer the grant or donation exceeds 15 percent of the grant or donation dollar amount, however, would not qualify for CRA consideration.[131]

Under the proposal, a bank could demonstrate that a grant or donation would be directly used for a program, project, or initiative with a primary purpose of CD consistent with current guidance regarding primary purpose, discussed below. As discussed in section IV.G of this SUPPLEMENTARY INFORMATION, a large bank would have additional requirements to demonstrate that the definition is satisfied, specifically the recipient's written commitment to use the funds to provide specific qualifying activities in the bank's assessment area(s); the recipient's written attestation that their indirect costs for administering the grant or donation will not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard; and documentation provided by the recipient supporting the attestation, including IRS Form 990 (Return for Tax Exempt Organizations) with annual operating and program budgets. In the agencies' view, these guardrails are important to prevent banks from receiving CRA consideration for grants and donations that do not sufficiently benefit the bank's local community.

The agencies invite comment on the new proposed definition for community development grants. In particular, the agencies request comment on whether the proposed use of the indirect cost rate from the Uniform Guidance for Federal Awards is an appropriate standard for considering a CD grant recipient's indirect costs associated with grant administration.

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[131] OMB guidance guarantees a de minimis rate for indirect costs of 15 percent to "allow for a more reasonable and realistic recovery of indirect costs, particularly for new or inexperienced organizations that may not have the capacity to undergo a formal rate negotiation but still deserve to be fully compensated for their overhead costs." *See* 89 FR 30046, 30093 (Apr. 22, 2024); *see generally* 2 CFR part 200, subpart E.

Request for Feedback

Question 9: Are there alternative standards the agencies should consider relying on in the context of limiting indirect costs for CD grants? Do the proposed guardrails do enough to ensure the majority of grant and donation funds go directly towards benefiting the bank's assessment area(s)?

Question 10: As an alternative, should the agencies eliminate all grants and donations from CRA consideration?

CD services. Under the current rule, a CD service means a service that has CD as its primary purpose, is related to the provision of financial services; and has not been considered in the evaluation of the bank's retail banking services under § __.24(d). Generally, the agencies would retain this definition, with several modifications for clarity. Specifically, consistent with current agency practices, the proposal would provide that a CD service is a volunteer service performed by a bank employee representing the bank or savings association. With this clarification that a CD service is a "volunteer service," the requirement that the CD service has not been considered in the evaluation of the bank's retail banking services is not necessary because there would not be any overlap. This is not intended as a substantive change. The proposed definition would also add "or the employee's area of expertise at the bank" to the requirement that a CD service relate to the provision of financial services, which would incorporate guidance found in the Interagency Questions and Answers.[132] This addition is intended to capture instances where bank employees utilize their expertise, whether related to the provision of financial services or not, in providing a CD service. In addition, as with CD loans and CD investments, the proposed definition would provide that the CD service must, except as specified in § __.13(e), benefit the bank's assessment area(s).

[132] *See* Q&A § __.12(i)—3.

Definition of CD activity. The proposal would add a definition of "community development activity," that would include "a community development grant, community development investment, community development loan, or community development service." The agencies intend to use this definition throughout their CRA rules as a streamlined reference for the collective discussion of CD grants, investments, loans, and services.

Primary purpose. Generally, all CD activities are required to have a primary purpose of community development, in addition to other requirements in the applicable definition of the CD activity.[133] Under the proposal, the agencies expect to continue to interpret the term "primary purpose" consistent with current guidance. Generally, CD loans, CD investments, CD grants or CD services have community development as their primary purpose when they are designed for the express purpose of affordable housing, civic assistance, economic development, or revitalization and stabilization. To determine whether an activity is designed for an express CD purpose, the agencies apply one of two approaches. First, if a majority of the dollars or beneficiaries of the activity are identifiable to one or more of the CD purposes in the "community development" definition, then the activity will be considered to possess the requisite primary purpose. Alternatively, where the measurable portion of any benefit bestowed or dollars applied to the CD purpose is less than a majority of the entire activity's benefits or dollar value (or cannot be specifically measured), then the activity may still be considered to possess the requisite primary purpose, and the institution may receive CRA consideration for the entire activity, if: (1) the express, bona fide intent of the activity, as stated, for example, in a prospectus, loan proposal, or community action plan, is primarily one or more CD purposes in the definition of "community development;" (2) the activity is specifically structured (given any

[133] For example, as discussed above, in addition to being directly used by the recipient for a program, project, or initiative that has as its primary purpose of community development, a grant for a large bank must be provided to a recipient whose indirect costs for administering the grant or donation do not exceed 15 percent to qualify as a CD grant. Also as discussed above, in addition to having as its primary purpose community development, a loan must not have been considered as a retail loan to qualify as a CD loan. Finally, as discussed above, in addition to having as its primary purpose community development, a service must be related to the provision of financial services or the employee's area of expertise at the bank to qualify as a CD service.

relevant market or legal constraints or performance context factors) to achieve the expressed CD purpose; and (3) the activity accomplishes, or is reasonably certain to accomplish, the CD purpose involved.[134] The agencies invite comment on whether the agencies should codify a definition of "primary purpose."

Request for Feedback

Question 11: Should the agencies provide guidance regarding how primary purpose would be determined for each CD purpose in the definition of "community development"?

Qualitative factors. Under the current rule, the applicable performance tests and standards include certain qualitative factors that enhance the extent to which a particular CD activity factors into a bank's assigned ratings. Consideration of the qualitative aspects of a bank's CRA performance recognizes that CD activities sometimes require special expertise or effort on the part of the institution or provide a benefit to the community that would not otherwise be made available. These qualitative factors necessarily rely on examiner judgment and are informed by a bank's performance context. The qualitative factors in the current rules are complexity, innovativeness, flexibility, and responsiveness. The current rules do not define these terms. Moreover, the agencies apply these qualitative factors inconsistently (*i.e.*, different performance tests and the performance criterion within those tests use different qualitative factors without clear differentiation as to why one qualitative factor applies and not another and examiners apply varying levels of consideration to the qualitative aspects of a bank's performance).

Over time, banks, community groups, and others have provided feedback on the challenges presented by the lack of clarity in the meaning of these terms, when they apply, how they differ, and the potential impact on a bank's ratings. To provide clarity, the agencies have issued several Interagency Questions & Answers to rationalize the application of these

[134] *See* Q&A § __.12(h)—8.

qualitative factors[135] and clarify their meaning. In general, a bank's performance under the qualitative factors may augment the consideration given to a bank's performance under the criteria that consider quantitative factors, such as the number and dollar amount of CD activities, resulting in a higher level of performance and ratings. Complex, innovative, and flexible activities are not required to obtain a specific rating but can enhance a bank's CRA performance because these types of activities are considered more responsive to community credit needs. Despite efforts to explain the agencies' consideration of qualitative factors in the context of CRA examinations, particularly in the 2016 revisions to the Interagency Questions & Answers, questions related to these factors persist.

The agencies are proposing to clarify these concepts by: (1) applying uniform terminology across the performance tests and standards by explaining the concept of responsiveness in a new provision of the rule; and (2) clarifying the meaning of complexity. Specifically, the proposal would add a provision addressing responsiveness consistent with the guidance in the Interagency Questions & Answers.[136] The concept of "responsiveness" would encompass all of the qualitative factors examiners consider as a part of an assessment of a banks' CRA performance, including impact, innovativeness, flexibility, and complexity. With respect to "complexity," the agencies are proposing to add a definition to their rules to both explain the qualitative factor and enhance the rule's focus on credit needs. The agencies are not proposing to define "innovativeness" and "flexibility" because these terms have not caused the same level of confusion as complexity and the agencies believe that the Interagency Questions & Answers provide sufficient guidance.[137] Under the proposal, the agencies' consideration of qualitative factors in assessing a bank's CRA performance would continue to function as a potential enhancement to the bank's CD performance with respect to quantitative considerations.

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[135] *See*, *e.g.*, Q&As §§ __.21(a)—2, __.21(a)—3, and __.21(a)—4.

[136] *See* Q&A § __.21(a)—3.

[137] *See*, *e.g.*, Q&As §§ __.21(a)—4 and __.22(b)(5)—1.

The agencies are proposing to largely codify the guidance contained in the Interagency Questions & Answers.[138] The proposed responsiveness provision would explain that when applying the applicable performance tests or standards the agencies assess the responsiveness of a bank's CD activities in meeting CD needs. The proposed section would also provide the factors that the agencies consider in assessing the responsiveness of a CD activity. The factors would include: (1) the innovativeness,[139] flexibility,[140] complexity, or impact[141] of the CD activity, as applicable; and (2) the quality of a bank's CD activities as demonstrated, for example, by the success of the CD activity in meeting an identified credit or CD need or opportunity. In applying this provision, the agencies would consider the bank's CD activities individually and in the aggregate, as appropriate.

As noted above, the agencies are also proposing to define the term "complexity" to provide clarity and enhance the rule's focus on credit needs. Under the proposal, the term "complexity" would have two components, both of which would have a focus on lending. The first component, applicable to CD investments, grants, and services, would provide that complexity means the extent to which an activity is a necessary or otherwise beneficial component of a multicomponent financing transaction involving a loan. This component of the definition excludes CD loans, which are addressed under the second component of the definition. The second component, applicable to CD loans and CD investments that are the functional equivalent of a loan would consider the extent to which the loan or investment otherwise requires specialized expertise in order to consummate the transaction. The proposal would also provide as an example of what this component of the definition would mean "a community development

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[138] *See* Q&A § __.21(a)—3.

[139] The innovativeness of a bank's CD activities would continue to be considered consistent with the guidance in Q&A § __.21(a)—4.

[140] In evaluating the flexibility of a bank's CD activities, the agencies consider the terms and conditions of a CD activity, as applicable, and the extent to which any flexible terms or conditions augment the success and effectiveness of the bank's CD activity in meeting credit and CD needs. *See, e.g.*, Q&A § __.22(b)(5)—1.

[141] In considering the impact of a CD activity, the agencies consider not only the size of the activity but also the benefits received by a community. *See, e.g.*, Q&A § __.24(e)—2.

activity that is not routinely provided by private investors, such as an activity that relies on public subsidies." The agencies included this example in the proposed definition to provide clarity and incorporate an existing component of the current performance tests that the revisions to the qualitative factors would otherwise have eliminated.

The proposed "complexity" definition would capture the vast majority of the types of CD activities the agencies have considered to be complex under the current rules while also enhancing the rule's focus on lending. Under the proposal, if an examiner were to determine that a bank's CD activities demonstrate complexity, those activities would be considered responsive and thus receive greater weight in the CRA performance evaluation. Nonetheless, the agencies acknowledge that the introduction of the proposed "complexity" definition may result in certain CD activities that would be considered complex under the current rules no longer meeting the complexity standard under the proposed definition. Some activities previously considered complex may, depending on the facts and circumstances, still be considered more responsive to community credit needs if they are innovative, flexible, or impactful. By rationalizing the use of qualitative factors across the tests through the proposed responsiveness provision, the agencies would be better able to determine if an activity is responsive even if the activity is not complex.

The agencies invite comment on the proposed approach to the consideration of qualitative factors in assessing a bank's CD activities and the impact on a bank's CRA performance.

Request for Feedback

Question 12: Does the proposed definition of "complexity" enhance the rule's focus on meeting community credit needs by providing greater consideration to CD investments, grants, and services that are linked to CD lending activities or are otherwise the functional equivalent of loans?

Question 13: Should the first component of the "complexity" definition apply to loans and activities that are the functional equivalent of loans?

Question 14: Are there additional opportunities for the agencies to further enhance the rule's focus on lending, such as by requiring that CD investments and CD services be complex? If so, should complex CD activities be a requirement for all banks or only banks that exceed a certain asset size, such as banks that would be large banks under the proposal?

Question 15: Should complex CD activities be considered more responsive than innovative, flexible, or impactful CD activities?

Question 16: Should the agencies provide a definition of innovativeness or flexibility?

a. If so, should the definition of innovativeness codify the guidance in the Interagency Questions & Answers,[142] which applies a varying standard based on the size and sophistication of the bank, or should the agencies consider other definitions or concepts of innovativeness?

b. If the agencies codified the guidance from the Interagency Questions & Answers, should the innovativeness standard be applied uniformly regardless of a bank's size?

c. If the agencies define flexibility, should the agencies define it based on the terms and conditions of the activity, the way it enhances access to credit, or based on another concept?

Question 17: Should the rules limit the concept of responsiveness to consideration in the evaluation of a bank's CD activities?

D. Community Development Definition

As discussed above, under the current rules, the agencies' assessment of a bank's record of meeting community credit needs includes consideration of CD activities (*i.e.*, loans, investments (which include grants), and services that have CD as their primary purpose). The current definition of "community development" in § __.12 is comprised of four broad principles-based categories: (1) affordable housing, (2) community services, (3) economic development, and (4) revitalization and stabilization. To provide guidance, the agencies have issued several Q&As that clarify the CD definition and provide certain examples of qualifying CD activities.[143]

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[142] Q&A § __.21(a)—4.

[143] *See*, *e.g.*, Q&As §§ __.12(g)—1, __.12(g)—2, __.12(g)(2)—1.

The guidance, however, has not provided sufficient clarity for banks to understand whether certain activities qualify for consideration under the principles-based CD definition. For banks and other interested parties, the lack of clarity with respect to the meaning of community development has been one of the most prominent and consistent concerns with the current rules.

To address the issues with the current CD definition, the agencies are proposing to maintain the four categories of "community development" but further define each category to make the CD definition clearer and more objective. The proposed definition would codify several aspects of the agencies' guidance currently provided in the Interagency Questions and Answers. The proposed definition would also provide certain targeted expansions to the scope of the current criteria based on feedback the agencies have received about other areas of community need that are consistent with the agencies' view of community development, explained below. The proposed revisions to the four categories of community development are discussed below.

Affordable housing. Under the current rules, the CD definition includes as a category "affordable housing (including multifamily rental housing) for LMI individuals."[144] The agencies have stated in the Interagency Questions and Answers that LMI individuals must benefit or be likely to benefit from the housing in order for an activity to qualify and meet the existing primary purpose standard.[145] Currently, the agencies consider affordable housing to include activities that support both single-family (1-4 family units) and multifamily (more than 4-family units) affordable housing. Single-family home mortgage loans are generally considered as part of the lending test; however, other activities that are not home mortgage loans and that support single-family affordable housing may be considered as community development.[146]

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[144] Current 12 CFR __.12(g)(1).

[145] *See* Q&A § __.12(g)(1)—1.

[146] Single-family home mortgage loans may be included as CD under the intermediate small bank methodology. *See* Q&A § __.12(h)—3.

Multifamily loans are considered separately and may qualify for both retail lending and community development consideration if they meet the definition of affordable housing.[147]

The proposal would clarify that multifamily housing qualifies under two different categories of affordable housing: subsidized or unsubsidized housing. Housing that is financed or supported by a government affordable housing program or a government set-aside is considered subsidized affordable housing. Subsidized affordable housing is generally viewed as qualifying under affordable housing criteria if the government program or set-aside[148] has a stated purpose of providing affordable housing to LMI individuals, thereby satisfying the Interagency Questions and Answers guidance that LMI individuals benefit, or are likely to benefit, from the housing.[149] The proposed rules would clarify that subsidized housing may have a mixed-income component, in which case the pro rata dollar amount of the total activity would be based on the percentage of units set aside for affordable housing to LMI individuals.

Multifamily housing with affordable rents, but that is not financed or supported by a government affordable housing program or a government set-aside, is generally considered unsubsidized affordable housing, and is also referred to as "naturally occurring affordable housing." Although banks may receive consideration for activities that support naturally occurring affordable housing under the current rules, the rules do not expressly reference these activities, and the Interagency Questions and Answers are not sufficiently clear about whether they qualify as community development or the standards for demonstrating that a property is naturally occurring affordable housing. The proposed rules would clarify that naturally occurring affordable housing can qualify as affordable housing if the rents are affordable to LMI individuals, and if it is clear that LMI individuals benefit, or are likely to benefit, from this

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[147] *See* Q&A § __.42(b)(2)—2.

[148] Under the current rules and Interagency Questions and Answers, affordable housing that is in connection with a government set-aside is eligible for partial consideration based on the portion of the activity that helps to provide affordable housing to low- or moderate- income individuals.

[149] *See* Q&A § __.12(g)(1)—1.

housing. As discussed below, the proposal would provide a standard for determining the benefit or likely benefit to LMI individuals. Further, the proposal would also clarify that naturally occurring affordable housing in high-cost areas can qualify as affordable housing if the rents are affordable to low-, moderate-, or middle-income individuals, and if it is clear that low-, moderate-, and middle-income individuals benefit, or are likely to benefit, from this housing. This component of the proposed affordable housing definition would codify guidance in the Interagency Questions and Answers providing that the agencies may consider housing to middle-income individuals in high-cost areas.[150] Although not defined in the Interagency Questions and Answers, the agencies have considered as a high-cost area any county in which the percentage of households who have monthly housing costs greater than 30 percent of their monthly income is greater than 40 percent.[151] This housing cost burden standard is derived from certain U.S. Bureau of the Census data regarding cost-burdened households.[152] The agency seeks comment on whether the definition of affordable housing should include affordable housing for middle-income individuals residing in high-cost areas. High-cost areas generally have an inadequate supply of housing that is affordable for middle-income individuals and families and expanding the definition would provide additional flexibility for banks to identify opportunities to address community needs. However, the agencies recognize that broadening the definition could reduce

[150] *See* Q&A § __.12(g)—3.

[151] Because there is no defined standard for identifying high-cost areas, the agencies have used different methodologies in applying the guidance in the Interagency Questions and Answers. However, since issuing the 2020 CRA rule, the OCC has generally considered as a high-cost area any county in which the percentage of households who have monthly housing costs greater than 30 percent of their monthly income is greater than 40 percent. This standard is based on agency practice, analysis conducted during the 2020 rulemaking process, and consideration of the population thresholds for when housing cost burden is likely to impact middle-income individuals. The 40 percent threshold is set above the national LMI cutoff and, therefore, would capture areas where cost burdened extends beyond the LMI population, indicating that middle-income households are also experiencing housing cost pressure. *See* U.S. Census Bureau, "2016–2020 American Community Survey 5-Year Estimates" (2022), *https://data.census.gov* (American Community Survey 2016-2020 5-year estimates indicate that approximately 39 percent of families nationally are low- or moderate-income).

[152] *See*, *e.g.*, U.S. Census Bureau, "Nearly Half of Renter Households Are Cost-Burdened, Proportions Differ by Race" (Sept. 12, 2024), *https://www.census.gov/newsroom/press-releases/2024/renter-households-cost-burdened-race.html*.

the emphasis on activities that serve LMI individuals more directly and areas where the need is more acute.

Under the proposal, consideration for naturally occurring affordable housing would continue to include affordable housing activities conducted in collaboration with a non-profit organization, even though non-profits are not expressly referenced. The agencies seek comment on whether it is sufficiently clear that affordable housing activities in partnership with non-profit organizations are included in the meaning of affordable housing or whether these partnership activities need to be expressly addressed in the rule.

The agencies are proposing the changes to clarify the treatment of unsubsidized affordable housing. Clarifying the standards for unsubsidized affordable housing in the CD definition would help encourage banks to engage in efforts to preserve and add to the nation's affordable housing stock. The agencies invite comment on the proposal to clarify that naturally occurring affordable housing would qualify as community development and, in particular, on the affordability standard included in the proposed rules, discussed below.

Under the proposal, affordable housing would include activities that finance or support owner-occupied housing purchased, refinanced, or improved by LMI individuals or families, except for home mortgage loans provided directly to LMI individuals or families. This aspect of the affordable housing criteria would encompass, for example, an investment provided to a non-profit organization that constructs or rehabilitates affordable housing for purchase by LMI individuals. Additionally, consistent with the current rules, this criterion would capture mortgage-backed securities (MBS) while excluding retail home mortgage loans.

Under the current rules, there is no specified standard for determining when a property or unit is considered affordable to LMI individuals. Although alternatives exist,[153] the agencies propose adopting the approach used by banks and examiners to calculate an affordable rent based

[153] *See*, *e.g.*, U.S. Department of Housing and Urban Development "Fair Market Rent (FMR)," *https://www.hudexchange.info/homelessness-assistance/coc-esg-virtual-binders/coc-leasing-rental-assistance-requirements/fmr/*.

on what is affordable to a moderate-income renter, assuming that 30 percent of the renter's income is spent on rent. In high-cost areas, the affordable rent calculation would be based on what is affordable to a middle-income renter, assuming that 30 percent of the renter's income is spent on rent. The agencies believe this approach would provide a clear and consistent standard for affordability. The agencies seek feedback on whether an alternative standard for affordable rent should be considered.

Request for Feedback:

Question 18: Should the definition of affordable housing be expanded to include rental housing for middle-income individuals in high-cost areas as proposed? For example, should banks be incentivized to support affordable workforce housing that would allow public servants, such as teachers, firefighters, and police officers, to live in the communities they serve?[154]

Question 19: Should the agencies clarify what constitutes a high-cost area, for example by providing a definition? If so, should the definition be based on the standard for housing cost-burdened households referenced above? Is the 40 percent threshold appropriate or should it be set higher to ensure that the definition meaningfully captures counties where middle-income families or households are housing cost burdened, for instance should it be set at 50 percent? Are there other definitions of "high-cost areas" that the agencies should consider?

Question 20: Should the agencies incorporate a consideration of the cost of providing housing, such as the High Opportunity Area defined and used by the Federal Housing Finance Agency,[155] either as a component of responsiveness factors or as a separate category for affordable housing, to encourage the creation or preservation of affordable housing in areas where housing is difficult to develop?

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[154] *See* Congressional Research Service, "Workforce or Middle-Income Housing: Analysis and Policy Considerations" (Mar. 25, 2026), *https://www.congress.gov/crs-product/R48886*.

[155] *See* 12 CFR 1282.1 (defining a "high opportunity area").

Question 21: Should naturally occurring affordable housing partnerships with non-profit organizations be exempt from the requirement that median rents not exceed 30 percent of 80 percent of the area median income?

Question 22: Should naturally occurring affordable housing partnerships with non-profit organizations be exempt from the requirement that median rents not exceed 30 percent of 120 percent of the area median income in high-cost areas?

Question 23: Should the rules modify the definition of affordable housing such that home mortgage loans provided directly to LMI individuals or families would qualify as CD loans if not considered as a major product line for the bank?

Civic assistance. The current CD definition includes "community services targeted to LMI individuals." The current rules do not further define community services, but the Interagency Questions and Answers include examples of activities that qualify for consideration as community services, such as programs for LMI youth, homeless centers, soup kitchens, healthcare facilities, domestic violence shelters, and alcohol and drug recovery programs serving LMI individuals.[156] The proposed rules recategorize these same activities as "civic assistance"[157] and provide additional detail and clarity about the covered activities.

First, the proposed definition would provide a non-exhaustive list of examples of activities that would be considered civic assistance. Current guidance states that community development includes support or financing for educational programs targeted to LMI persons,[158] and the proposal would further clarify that support or financing for education includes providing low-cost education loans. Next, the proposed rules incorporate the standard that civic assistance serves, or is reasonably expected to serve, LMI individuals or families. For example, services provided by a free community clinic would be reasonably expected to serve LMI individuals or

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[156] *See* Q&As §§ __.12(g)—1 and __.12(t)—4.

[157] The agencies are proposing to change the current term "community services" to "civic assistance" to minimize the potential for confusion with CD services, a term the agencies are retaining under the proposal.

[158] *See* Q&A § __.12(g)—1.

families. Finally, workforce development and job training programs, which currently qualify as a component of economic development, would be reclassified as civic assistance. The current rules do not address workforce development and job training programs, but the Interagency Questions and Answers provide that these activities should be considered under the economic development definition as well as more broadly as under the CD definition.[159] However, under the current guidance, economic development activities are tied to a financing activity for a small business.[160] Although the agencies believe that the economic development definition could include workforce development and job training activities, such activities are better aligned with the focus of the proposed civic assistance definition, which does not restrict the size of the business involved. Therefore, the agencies are keeping the current treatment of these activities as CD but changing the category of CD in which they are considered.

Economic development. Under current guidance, activities qualify as economic development if they meet both a "size test" and a "purpose test."[161] An institution's loan, investment, or service meets the size test if it finances, either directly, or through an intermediary, businesses or farms that either meet the size eligibility standards of the U.S. Small Business Administration's Development Company (SBDC) or Small Business Investment Company (SBIC) programs, or have gross annual revenues of $1 million or less.[162] In connection with the size test, the term "financing" is considered broadly and includes technical assistance that readies a business that meets the size eligibility standards to obtain financing.[163] To meet the purpose test, current guidance states that a bank's loan, investment, or service must promote economic development by creating, retaining, and/or improving permanent jobs for LMI persons, in LMI geographies, in areas targeted for redevelopment, or by financing certain

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[159] *See* Q&As §§ __.12(g)(3)—1 and __.12(g)—1.

[160] *See id.*

[161] *See* Q&A § __.12(g)(3)—1.

[162] *Id.*

[163] *See id.*

intermediaries.[164] As discussed above, activities that support Federal, State, local, or Tribal economic development initiatives that create or improve access for LMI persons to jobs or job training or workforce development are also considered to meet the purpose test.

The proposed rules outline a standard for what constitutes economic development by organizing the activities into three categories. The first category would cover financing for a business or farm that meets the size requirements of the SBDC or SBIC programs or has gross annual revenues of $1 million or less, and expands, improves, or preserves the business's or farm's productive capacity, physical presence, or employment bases, excluding financing primarily used for ongoing operating liquidity. Additionally, the proposed rules provide a non-exhaustive list of examples of qualifying economic development activities. The agencies propose removing the requirement for the activity to create, improve, or retain jobs for LMI individuals or in an LMI area. However, an activity would not qualify as economic development if it is reasonably likely to result in a reduction in jobs at a business or farm. For example, the financing for the purpose of purchasing technology that would replace employee functions without simultaneously resulting in hiring new employees would not meet the proposed economic development definition. The agencies believe banks will be able to more easily implement this standard compared to the difficulties implementing the current requirements, which lack objective criteria. As discussed below, although the agencies recognize that in the interest of providing a clear and objective standard, the proposed definition would expand the activities that would qualify as economic development. The agencies believe that the proposed definition is consistent with the language in the current rules (which do not expressly reference the purpose test in the Interagency Questions and Answers) and would appropriately encourage support for businesses and farms in banks' communities that drive economic growth for those communities. The agencies seek comment on this proposal.

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[164] *See id.*

The second category of economic development covers technical assistance and support services for a business or farm that meets the size requirements of the SBDC or SBIC programs or has gross annual revenues of $1 million or less. These activities are not expressly referenced in the current rule, but they are considered CD activities in the Interagency Questions and Answers.[165] The agencies determined that these activities also provide support for businesses and farms that drive economic growth for banks' communities. Specifically, in the agencies' supervisory experience, some small businesses and small farms may not be prepared to obtain traditional bank financing and may need technical assistance and other services to obtain credit in the future. Supporting these activities fills a gap in needed services for small businesses and small farms and plays a critical role in helping small businesses and small farms grow and thrive. This category would be a clarifying revision to the current rules that would codify existing guidance.

The third category of economic development would include Federal, State, local, or Tribal government programs, projects, or initiatives that serve small businesses or small farms, as defined by those programs. The current CD definition does not include stand-alone criteria for economic development activities aligned with Federal, State, local, or Tribal programs, but these activities are referenced in the Interagency Questions and Answers.[166] Consistent with the guidance in the Interagency Questions and Answers, the proposed definition would highlight SBDCs, SBICs, New Markets Tax Credit-eligible Qualified Community Development Entities, U.S. Department of Agriculture Rural Business Investment Companies, and Community Development Financial Institutions that finance small businesses or small farms as examples. Although the current rules do not specifically address activities with these entities, the Interagency Questions and Answers state that the agencies will presume that activities with these

[165] *See* Q&A § __.12(g)(3)—1.

[166] *See*, *e.g.*, Q&As §§ __.12(g)(4)(i)—1 and __.12(g)(3)—1.

entities promote economic development.[167] As a result, the proposal is intended to provide greater clarity and encourage the continued participation in, and support of, programs offered through these providers of small business and small farm financing. The agencies believe that aligning economic development activities with government programs that address identified needs for small businesses and small farms would encourage coordination amongst banks, government agencies, and other program participants for activities that can be highly responsive to the unmet needs of communities. The agencies seek feedback on the non-exhaustive list of examples of Federal, State, local, or Tribal government programs, projects, or initiatives that serve small businesses or small farms.

Taken together, the proposed economic development categories would continue to capture the types of activities that the agencies consider to promote economic development by financing small businesses or small farms today with certain expansions discussed above. The rules would, however, do so through a more objective set of criteria than provided in the current rules as interpreted in the Interagency Questions and Answers. In particular, the proposal would eliminate the purpose test component of the Interagency Questions and Answers guidance.[168] As a result, banks would no longer need to demonstrate, for example, LMI job creation in order for a loan to a small business that meets the size standards in the rules to be considered an economic development activity. Instead, banks would demonstrate that the type of activity or program through which the activity was made is one the agencies identified in the definition as being economic development. The agencies decided to eliminate the purpose test due to the subjective nature of the test. Elimination of the purpose test also would be responsive to concerns that the focus on job creation for LMI individuals does not account for the quality of those jobs and may divert the focus of the provision away from the benefit to businesses and farms in the bank's

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[167] *See* Q&A § __.12(g)(3)—1. New Markets Venture Capital companies were an example highlighted in the Interagency Questions and Answers but not carried over to the proposed rules because program funding has since been exhausted. This change from the Interagency Questions and Answers is intended to clarify the rules but not substantively reduce the activities that would receive consideration.

[168] *See id.*

community, which were the intended beneficiaries of the economic development prong of community development. The agencies believe that the proposed approach focuses on the type of activities that are likely to help support a business's or farm's growth and profitability, in turn benefiting the community in which the business or farm is located. As a result, the agencies believe that the proposal would be more likely to support the creation of quality jobs, including for LMI individuals and areas.

The agencies invite comment on their proposed changes to the economic development category of community development.

Request for Feedback

Question 24: Should the agencies further limit the businesses or farms that qualify under the first category of economic development (proposed § __.12, definition of economic development paragraph (3)(i)(A)), for example, by excluding startups that are expected to quickly exceed the size test or excluding small businesses that are affiliated with non-small businesses?

Question 25: Should the agencies retain the requirement that the activity create, improve, or retain jobs for LMI individuals or in an LMI area in the first category of economic development?

Question 26: Should any of the example government programs included in the third category of economic development (proposed § __.12, definition of economic development paragraph (3)(iii)) be removed from the list of examples? Should additional programs, projects, or initiatives be included in the list of examples?

Question 27: Are the proposed revisions to eliminate the purpose test provided in the Interagency Question and Answers and include more objective criteria in the definition of "economic development" likely to encourage banks to finance businesses and farms that benefit communities, for example through the job creation?

Question 28: Are there any activities that would qualify under the proposal as economic development that should not be considered economic development, for example because they relate more to a business's or farm's ongoing operations and not to its growth and profitability?

Question 29: Are there activities that would be considered economic development under the current rules that would not qualify under the proposed definition of economic development?

Question 30: Are there other programs that should be presumed to promote economic development, such as programs that support Indian country residential development? Alternatively, should these activities be presumed to qualify as community development but instead be considered as a revitalization and stabilization activity that helps to attract or retain businesses or residents (*see* discussion of revitalization and stabilization activities below)?

Revitalization and stabilization. Under the current rules, the revitalization and stabilization component of the CD definition is intended to encourage banks to direct additional resources toward broader efforts to rebuild certain targeted communities, rather than solely focusing on the needs of LMI individuals in these communities. The current rules define four types of eligible census tracts[169] where revitalization and stabilization activities qualify: LMI census tracts; distressed nonmetropolitan middle-income census tracts; underserved nonmetropolitan middle-income geographies; and designated disaster areas.[170] In general, activities that revitalize or stabilize a census tract are ones that help to attract new or retain existing businesses or residents.[171] Current guidance also states that an activity will be presumed to revitalize or stabilize a census tract if the activity is consistent with a government plan for the revitalization or stabilization of the area.[172] However, the standards in the guidance for the types of plans that can be used to determine eligibility vary.

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[169] As noted in section IV.I of this SUPPLEMENTARY INFORMATION, the agencies are proposing a non-substantive, technical revision to the current rules to change the term "geography" to "census tract."

[170] *See* 12 CFR __.12(g)(4).

[171] *See*, *e.g.*, Q&As §§ __.12(g)(4)—2, __.12(g)(4)(i)—1, __.12(g)(4)(ii)—2, and __.12(g)(4)(iii)—3.

[172] *See* Q&As §§ __.12(g)(4)(i)—1, __.12(g)(4)(ii)—2, and __.12(g)(4)(iii)—3.

Consistent with the current rules and guidance, the proposed rules would continue to include revitalization and stabilization of LMI census tracts and distressed or underserved nonmetropolitan middle-income census tracts.[173] In addition, the proposed rules would include activities that revitalize or stabilize Indian country[174] or other Tribal and native lands as a new targeted geographic area. The agencies believe that adopting a criterion for specified activities in Indian country or other Tribal and native lands will further the purpose of the CRA to encourage banks to meet the credit needs of their entire communities, including those of LMI communities. Available data indicate that communities in Indian country or other Tribal and native lands face significant and unique CD challenges similar to the census tracts referenced in the current rules.

The agencies also are proposing to include areas targeted by a government entity for redevelopment that qualify for significant economic incentives, such as tax credits, tax abatements, or grants as a new targeted area in the revitalization and stabilization category of community development. Often, a governmental entity or agency, which could include a Federal, State, local or Tribal government entity, designates a neighborhood, district, or other geographic area for redevelopment through a formally adopted redevelopment plan that may include special activities, benefits, and funding from public and private sector resources. The activities in those

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[173] The proposal would codify the guidance in the Interagency Questions and Answers that include the agencies' standards for identifying distressed or underserved nonmetropolitan middle-income census tracts. Under the proposal, "distressed or underserved nonmetropolitan middle-income census tract" would mean (1) a middle-income census tract designated by the Board, FDIC, and the OCC as distressed or underserved based on the criteria identified in the definition, compiled in a list, and published annually by the FFIEC. A nonmetropolitan middle-income census tract would be designated as distressed if it is in a county that meets one or more of the following criteria (1) An unemployment rate of at least 1.5 times the national average; (2) A poverty rate of 20 percent or more; or (3) a population loss of 10 percent or more between the previous and most recent decennial census or a net migration loss of 5 percent or more over the five-year period preceding the most recent census. A nonmetropolitan middle-income census tract would be designated as underserved if it meets the criteria for population size, density, and dispersion that indicate the area's population is sufficiently small, thin, and distant from a population center that the census tract is likely to have difficulty financing the fixed costs of meeting essential community needs. The criteria for these designations are based on the Urban Influence Codes established by the U.S. Department of Agriculture's Economic Research Service numbered "6," "8," or "9."

[174] The agencies propose to define "Indian country" and "other Tribal and native lands" typically covered by these terms. Under the proposal, "Indian country" would be defined by reference to the definition in 18 U.S.C. 1151 but would also include Census Bureau-designated Tribal Census Tracts, Oklahoma Tribal Statistical Areas, Tribal Designated Statistical Areas, American Indian Joint-Use Areas, and Alaska Native Village Statistical Areas. The proposal would also include a definition of the term "other Tribal and native lands" which would be defined to include State Designated Tribal Statistical Areas, as defined by the Census Bureau, and Hawaiian Home Lands.

areas typically are designed to help attract and retain businesses and residents. Examples of formally designated redevelopment areas include LMI qualified opportunity zones,[175] Federal empowerment zones, State enterprise zones, or city tax incremental financing districts. The agencies propose adding this criterion to encourage continued bank participation in revitalization and stabilization activities responsive to identified community needs. The agencies considered adding a criterion for particular specified areas, such as qualified opportunity zones, but determined that a more general category would provide flexibility as government programs evolve and would prevent components of the rules from becoming obsolete.

The agencies are also proposing to clarify the CD definition with respect to revitalization and stabilization by codifying certain other aspects of the Interagency Questions and Answers. Specifically, the Interagency Questions and Answers provide that activities that revitalize or stabilize underserved nonmetropolitan middle-income census tracts include those that meet essential community needs, such as certain essential community facilities or infrastructure projects.[176] The proposal builds on this guidance by clarifying that both essential community infrastructure[177] activities and essential community facilities[178] activities would be considered if they provide financing or other support for the infrastructure or facility that benefits or serves: LMI census tracts; distressed or underserved nonmetropolitan middle-income census tracts; Indian country or other tribal and native lands; or any other area targeted by a government entity for redevelopment and that qualifies for significant economic incentives, such as tax credits, tax

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[175] *See* 26 U.S.C. 1400Z-1(a).

[176] *See*, *e.g.*, Q&A § __.12(g)(4)(iii)—4.

[177] The proposal would define “essential community infrastructure” to mean (1) public infrastructure, including, but not limited to, public roads, bridges tunnels; and (2) essential telecommunications infrastructure, mass transit, water supply and distribution, utilities supply and distribution, sewage treatment and collection, industrial parks, or other similar infrastructure that is provided as part of a public and private partnership. The proposed definition would codify the guidance in the Interagency Questions and Answers and agency practice in considering CD activities. *See id.*

[178] The proposal would define an “essential community facility” to mean a facility that is open to the public and that provides a valuable resource or service, including, a school, library, park, supermarket, hospital or health-care facility, public safety facility, or youth or community facility. The proposed definition is a codification of the guidance in the Interagency Questions and Answers and agency practice in considering CD activities. *See id.*

abatements, or grants (collectively, targeted areas). Current guidance explicitly notes that these activities are eligible in underserved middle-income nonmetropolitan census tracts, but these activities are only qualified in LMI census tracts, distressed nonmetropolitan middle-income census tracts or designated disaster areas if they help attract or retain businesses or residents.[179] Consequently, the current treatment of these activities in targeted census tracts is inconsistent, and the agencies' proposal aims to provide more clarity and certainty for when these activities can be considered and to do so consistently across the different categories of targeted areas. By expressly referencing essential community facilities in the definition of community development, the proposal would clarify when these activities receive consideration and incentivize banks' activities related to these facilities. The addition of an express reference to essential infrastructure in the proposed rules would acknowledge the importance of these types of projects to communities by ensuring that essential infrastructure activities receive CRA consideration if they benefit LMI census tracts or other targeted areas. The addition also would recognize that essential infrastructure projects are often community-wide projects for which it is not feasible to allocate the benefit to specific populations or areas.

The agencies propose adding a component to the definition of revitalization or stabilization for Federal, State, local, or Tribal government programs, projects, or initiatives that are consistent with a bona fide government revitalization or stabilization plan in targeted areas. Although many programs, projects, or initiatives covered by this component of revitalization and stabilization would be eligible to receive consideration under the current CD definition, this proposed component of the CD definition would provide clarity in the rules to ensure that all activities consistent with this component of the definition receive CRA consideration. The agencies believe that, in many circumstances, communities are in the best position to identify their needs and design projects, programs, and initiatives that help to address those needs. This

[179] *See* Q&A § __.12(g)(4)(iii)—3.

category of revitalization and stabilization would ensure that activities related to both existing and future programs that benefit certain populations and areas of need will receive CRA consideration, even if the activities do not meet one of the other components of the CD definition, such as affordable housing. Including this component of revitalization and stabilization in the CD definition would reduce the circumstances in which sections or subsections of the rules become obsolete due to the inclusion of specific programs that expire or are repealed.

Similar to the current rules, the proposed rules' definition of activities that revitalize and stabilize targeted areas includes activities that attract or retain a major employer (*i.e.*, activities that are reasonably likely to have a meaningful direct or indirect impact on unemployment in the area) that will create long-term job opportunities. This proposal restates current guidance in the Interagency Questions and Answers[180] and further clarifies that banks should be able to demonstrate the activity is reasonably likely to have a meaningful direct or indirect impact on unemployment in the area. The agencies believe the proposal provides reasonable assurance that the activity is likely to meaningfully benefit the targeted area while also recognizing the difficulty in projecting, at or before initiation, the activity's impact on unemployment. This category of the definition is meant to capture the aspect of the current Interagency Questions and Answers that focuses on attracting or retaining new or existing businesses or residents. Under the current rules, job creation for LMI individuals for small businesses is largely addressed through the economic development component of community development. To the extent that job creation or retention is considered as part of revitalization or stabilization, it is generally focused on larger businesses that provide more significant employment opportunities for a geographic area with the effect of revitalizing or stabilizing the area overall, as opposed to supporting the

[180] *See* Q&A § __.12(g)(4)(iii)—3.

business. This proposed category is intended to have a similar focus and ensure that activities that would qualify under the current rules continue to receive consideration under the proposal.

The proposed definition of revitalization or stabilization activities includes certain activities in designated disaster areas. Consistent with current guidance, this includes activities that revitalize or stabilize geographic areas subject to a Major Disaster Declaration administered by the Federal Emergency Management Agency (FEMA), and activities in designated disaster areas that meet this eligibility standard would be considered, regardless of the income level of the designated census tracts. The agencies believe activities that promote the recovery of designated disaster areas benefit the entire community, including, but not limited to, LMI individuals and LMI communities. The proposed definition provides further clarity that the support is not limited to financial support and may include activities that help communities prepare for, adapt to, or withstand other natural disasters. The proposal would codify and expand the current guidance by adding a definition for designated disaster area that is based on the Interagency Questions and Answers but eliminates the limitation excluding counties designated to receive only FEMA Public Assistance Emergency Work Category A (Debris Removal) and/or Category B (Emergency Protective Measures).[181] The agencies are proposing to remove these exclusions to allow banks to receive consideration for activities in these areas. In making this change, the agencies are deferring to FEMA's expertise in designating disaster areas and recognizing the exception that they made to the exclusion to allow consideration for the COVID-19 designation, which was a Category B designation. The proposal would also codify the agencies' guidance on the length of the consideration provided but grant the agencies discretion to extend the 36-month time frame, consistent with the agencies practice in certain instances (*e.g.*, following Hurricane Katrina).

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[181] *See* Q&A § __.12(g)(4)(ii)—1.

Outside of activities related to disaster recovery, the current rules and guidance do not expressly identify as eligible for CRA consideration activities related to helping LMI individuals, LMI communities, small businesses, or small farms prepare for disasters.

The proposed definition of community development as it concerns activities in designated disaster areas would also encompass activities that assist individuals and communities in targeted areas to prepare for, adapt to, or withstand natural disasters, such as earthquakes, severe storms, droughts, flooding, and forest fires. Examples of eligible activities could include, but would not be limited to, developing financial products and services that help residents, small businesses, and small farms in targeted areas prepare for and withstand the impact of future disasters; supporting the establishment of flood control systems in a flood prone LMI or underserved or distressed nonmetropolitan middle-income census tract; and retrofitting affordable housing to withstand future disasters.

Request for Feedback

Question 31: Should the agencies retain the exclusion from the designated disaster area definition for counties designated to receive only FEMA Public Assistance Emergency Work Category A (Debris Removal) and/or Category B (Emergency Protective Measures) and instead add a provision to the rules that would provide the agencies with discretion to make exceptions to the exclusion when a disaster has a longer term and broader impact on affected communities?

E. Consideration of CD Activities

As previously discussed, one of the main challenges banks historically have had with the current rules is the lack of clarity in what counts as a CD activity. The sources of that challenge have been twofold. First, as discussed above, the current principles-based CD definition lacked clarity and relied on guidance and examiner judgment to determine whether a particular loan, investment, or service met the CD definition. Second, the guidance, predominantly in the form of Interagency Questions and Answers was at a high level and the examples did not address many scenarios. These circumstances left banks questioning whether certain activities would receive consideration in a CRA examination. Despite these legitimate questions, the agencies' policy was not to confirm whether an activity qualified as a CD activity until the bank provided documentation during a CRA examination.

In 2020, the OCC decided to change its policy to resolve this longstanding pain point by codifying an illustrative list and CD activity confirmation process in its 2020 CRA Rule. These changes were favorably received by banks and other interested parties. Although the OCC ultimately rescinded its 2020 CRA rule, it retained its confirmation process as a matter of policy. Due to the positive reception to these components of the OCC's 2020 CRA Rule, the agencies again sought to codify these processes in the 2023 CRA Rule. The agencies' views on the benefits of an illustrative list and CD activity confirmation process have not changed, and, as discussed below, the proposal includes both of these process improvements.

Illustrative list. The agencies are proposing to codify the existence of a publicly available non-exhaustive, illustrative list of examples of CD activities. The agencies believe that providing this list will reduce uncertainty regarding what qualifies for CD consideration and give banks greater ability to manage their CRA programs. Specifically, proposed § __.13(a)(1) would provide that the agencies separately maintain a publicly available non-exhaustive, illustrative list of examples of CD activities, as this term is defined in the proposed revisions to § __.12, that qualify for consideration under the applicable CD test. Although proposed § __.13(a)(1) would not require the agencies to compile a joint list, the agencies intend that they would coordinate on their lists. The agencies' illustrative lists may include examples of activities that the agencies have determined are not CD activities. Further, proposed § __.13(a)(2) would state that each agency would periodically update its illustrative list.

Codifying the publication of an illustrative list of CD activities is intended to promote transparency and consistency, provide banks and others with greater certainty, and help clarify the application of the CD definition. Additionally, the agencies believe that, on balance, these benefits outweigh the potential concern that the illustrative list might limit innovation by unintentionally leading banks to focus primarily on examples on the list. The agencies note, however, that the illustrative list is a guidance document only. Whether an activity qualifies for CRA consideration as a CD activity is determined not by the addition or removal of the activity from the list, but instead by the terms of the CD definition. Banks would not be limited to conducting activities on the illustrative list and, in fact, certain innovative activities that are considered highly responsive to community needs may not be on the list due to the new and unique nature of such activities.

Confirmation of CD activity eligibility. Proposed § __.13(b)(1) would establish an optional confirmation process through which a bank may request the appropriate agency's review to confirm whether a loan, investment, grant, or service qualifies for consideration as a CD activity in a bank's CRA examination.[182] The agencies intend that this optional process would be used primarily for novel potential CD activities that implicate significant legal or policy questions because, as discussed above in section IV.D of this SUPPLEMENTARY INFORMATION, the agencies have also provided clarity on the meaning of community development such that there should be fewer questions about what qualifies in the future. Further, the optional confirmation process would not replace a bank's ability to discuss whether a loan, investment, grant, or service qualifies for CD consideration with its examiners or to make its own determination, by applying the CD definition in proposed § __.12.

Process for confirming eligibility. To promote transparency, proposed § __.13(b)(2) would codify the factors the appropriate agency would consider in confirming the eligibility of a loan, investment, grant, or service for which a request has been submitted under proposed § __.13(b)(1). These factors would focus on the information that describes the CD purpose and otherwise supports the request (*i.e.*, the information that explains why the requestor believes the

[182] The agencies generally expect to treat the information provided to them through this process as nonpublic and to maintain the confidentiality of that information subject to applicable law. Banks and interested parties may designate information as confidential or request confidential treatment. The OCC will treat confidential commercial information submitted to the agency in accordance with 12 CFR 4.16. The FDIC will treat confidential commercial information submitted to the agency in accordance with 12 CFR 309.6.

activity meets the CD definition); whether the activity is consistent with safety and soundness, as required by statute; and any other information the appropriate agency deems relevant. It would also provide authority for the agencies to impose limitations or requirements on a confirmation that a loan, investment, grant, or service qualifies as a CD activity.

Notification of eligibility. Proposed § __.13(b)(3) would establish the process and time frame by which the appropriate agency would provide any confirmation under proposed § __.13(b)(2). The appropriate agency would also provide the rationale for any such determination under proposed § __.13(b)(2). These proposed changes would codify the OCC's existing practice with respect to its confirmation process. Under the proposal, the appropriate agency would communicate a response within 90 days after the request is received by the appropriate agency, unless that agency notifies the requestor that additional time is needed to consider a request. Lastly, the proposal would provide that a bank must retain any notification of eligibility issued pursuant to proposed § __.13(b)(3)(i) until the completion of its next CRA examination.

The agencies reiterate that because the optional confirmation process would not replace a bank's ability to determine on its own, by applying the CD definition in proposed § __.12, that a loan, investment, grant, or service qualifies for CD consideration, even if a bank submits a request pursuant to proposed § __.13(b)(1), the requestor need not wait to receive a response from the appropriate agency before making its own determination in accordance with proposed § __.12. Nonetheless, the agencies propose codifying the optional confirmation process to provide banks with greater certainty as to whether a specific activity, and in particular novel activities, would qualify as CD activities.

Request for Feedback

Question 32: Should a bank be required to retain a notification of eligibility of a CD loan or CD investment issued in connection with the proposed CD activity confirmation process for the period of time that the activity remains on the bank's balance sheet?

Question 33: Should the agencies provide an outer limit for the time frame in which they would provide a response following any notification to the requestor that additional time is needed to consider a request? If yes, what would be an appropriate length of time, for example would an additional 60 days be appropriate? Or a lesser amount of time such as 30 days? Should the agencies be required to specify the length of the extension in their notification to the requestor that additional time is needed?

Eligible community development activities, consideration. In § __.13(c), the agencies are proposing a provision that would address consideration for any CD activity that was eligible for CRA consideration at the time the bank conducted the activity in a bank's CRA examination if the activity was conducted during the evaluation period or remains on a bank's balance sheet. This would extend the treatment provided by the OCC's transition provision in its current rule to all CD activities in response to changes to the treatment of prior period CD loans and to clarify the treatment of prior period CD investments. If the appropriate agency later determines, during the same or a subsequent CRA evaluation period, that an activity is not eligible for CRA consideration, the bank will continue to receive consideration for the activity if it was eligible at the time that the bank conducted the activity and it is being considered in the evaluation period in which it was conducted or the activity is a loan or investment that remains on the bank's balance sheet (*i.e.*, originates, makes, purchases, grants, or provides the activity).

The OCC included a similar section as a transition provision in the agency's 2021 rulemaking due to the changing definition of CD activities from those that qualified under the OCC's 2020 rule and the agency's current rule. The agencies now believe that this provision should have broader applicability given the potential for changing facts, many of which are outside a bank's control, in addition to changing regulatory requirements. The agencies recognize that banks rely on confirmations of eligibility, whether provided through the proposed confirmation process or in the context of a CRA examination, and that replacing CD activities can be challenging in the short term due to competition and the lead time involved in certain financing projects. Therefore, the agencies' historical practice has been to qualify CD activities at the time that the activities are conducted. Proposed § __.13(c) would recognize these reliance interests, codify the agencies' existing practice, and extend the concept codified in the OCC's existing transition provision to make it generally applicable. As a result, the OCC is also removing the existing transition provision as it would be redundant.

CD activities in assessment areas. In § __.13(d) the agencies are proposing to clarify when a CD activity benefits or serves a bank's assessment areas, as well as standards for allocating CD activities across assessment areas when the CD activities benefit or serve more than one assessment area. The proposed approach would clarify the current rules and largely capture the same set of CD activities that would currently be considered in the bank's assessment area performance. To the extent that some CD activities that would have been considered in an assessment area under the current rules no longer would be under the proposal, the agencies believe the benefit of the clear approach outweighs the cost because the proposed framework would provide the potential for those activities to be considered at the bank-level. Further, as explained in the discussion of consideration of CD activities outside of a bank's assessment area below, if a bank sufficiently demonstrates that it is helping to meet the credit needs of its assessment areas it would be eligible to receive consideration in its State-, multistate MSA-, and bank-level ratings.

Assessment area allocation. In proposed § __.13(d)(2), the agencies would allocate CD activities that benefit or serve more than one assessment area to the assessment areas benefited or served based on documentation of the physical address of the recipient of the proceeds or the beneficiary of the activity, if available, or by the weight assigned to each assessment area benefited or served as provided in proposed § __.13(d)(3). With proposed § __.13(d)(2), the agencies' intention is to afford banks greater flexibility to allocate CD activities to assessment areas. Thus, a bank may decide whether to allocate CD activities based on documentation of the physical address or by the weight assigned. A bank would select how to allocate CD activities through the documentation it provides about the physical address or assessment area weights and may allocate by weight even if documentation of the physical address is available. The agencies request comment on whether proposed § __.13(d)(2) sufficiently conveys this flexibility.

Assigning assessment area weight(s). Proposed § __.13(d)(3) would codify how CD loans, investments, and grants that benefit or serve more than one assessment area are allocated based on the weight assigned to each assessment area benefited or served. Proposed § __.13(d)(3) would explain that for purposes of allocating CD loans, CD investments, and CD grants to assessment areas, the appropriate agency will assign a weight to the assessment area based on the proportion of deposits in the assessment area as determined by the Summary of Deposits survey data published by the FDIC for the latest year in the evaluation. This option would apply the methodology provided in proposed appendix C. Alternatively, a bank could, at the bank's option, weight assessment areas using another reasonable methodology provided at the time of the evaluation and approved by the appropriate agency. For example, if a bank invested in an economic development fund with a purpose, mandate, or function of financing Gulf Coast businesses, and the bank had one assessment area in Alabama and one assessment area in Louisiana, each with 50 percent of the bank's deposits, and the investment was allocated under proposed § __.13(d)(2)(B), then 50 percent of the investment would be allocated to each assessment area. Alternatively, if a bank invested in an economic development fund with a purpose mandate or function of serving the "rust belt" and the bank had assessment areas in Pennsylvania, Ohio, Indiana, and Michigan, the bank could provide as a methodology and the agencies could approve weighting the consideration for the investment in each assessment area based on documentation from the fund that would provide an allocation methodology based on the investments in the fund, including their locations and dollar amount. The agencies are proposing this provision to provide clarity on the dollar amount of consideration that will be allocated to a bank's assessment area(s). Understanding the applicable assessment area weighting methodology in advance would allow banks to manage their CRA programs more effectively.

The agencies request comment on whether the explanation of how assessment area weight(s) are assigned in proposed § __.13(d)(3) is sufficient, especially with regard to how the proportion of deposits in an assessment area is determined. Relatedly, the agencies request comment on whether they should provide examples of "another reasonable methodology," as used in proposed § __.13(d)(3)(i)(B), either in addition to the guideposts in proposed § __.13(d)(3)(ii), or in a separate guidance document.

The proposal includes a new provision clarifying the allocation of activities across affiliated banks, although this is permitted under the current rules in certain circumstances. The agencies would continue to apply their existing examination practices with respect to allocation of CD activities across affiliates consistent with the current rules and any applicable guidance. The agencies request feedback on whether they should provide standards for the allocation of CD activities in different circumstances in the rule.

CD activities outside assessment area(s). Under the current rules, the agencies generally consider bank performance, including with respect to CD activities, in the bank's assessment area(s).[183] The current rules also provide for consideration of CD activities that benefit a broader statewide or regional area that includes a bank's assessment area(s).[184] In addition, the current rules and applicable guidance recognize certain limited exceptions to the evaluation of CRA performance within assessment area(s).[185]

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[183] All of the applicable performance tests and standards in the current rules include a provision specifying that agencies evaluate a bank's record of helping to meet the credit needs of its assessment area(s). *See*, *e.g.*, 12 CFR __.22(a), __.23(a), __.24(a), __.25(a), __.26(a), and __.27(a).

[184] *See*, *e.g.*, 12 CFR __.23(a) (scope of investment test); 12 CFR __.24(b) (areas benefited by the service test); 12 CFR __.25(e)(1) (benefits to assessment areas under the wholesale or limited purpose bank CD test); Q&A § __.12(h)—6 (discussing benefits to the broader statewide or regional area for CD activities).

[185] For example, the current CD test for wholesale and limited purpose banks allows the agencies to consider CD activities that benefit areas outside a bank's assessment area(s) if the bank has adequately addressed the needs of its assessment area(s). *See* 12 CFR 25.25(e)(2). As discussed below in this SUPPLEMENTARY INFORMATION, the agencies' experience in applying this provision helped inform the proposal; however, the standard applicable to the current CD test for wholesale and limited purpose banks is not further clarified in the current rules or the Interagency Questions and Answers. The other performance tests and standards do not include a similar provision.

The geographic limitations imposed by the current framework have presented challenges for banks as bank business models and the areas in which they operate have evolved. Specifically, the current framework has resulted in geographic areas with significant competition for CRA activities due to a high number of banks with a physical presence in the area (*i.e.*, CRA hot spots) and other areas where banks do not engage in or engage in only limited CRA activities (*i.e.*, CRA deserts). Because of the geographic limitations, the current framework fails to incentivize CD activity in CRA deserts, including many rural areas, or provide banks with sufficient opportunities to meet credit needs when they operate in competitive markets.

Proposed § __.13(e) would set forth a new approach for where the agencies consider CD activities. Under the proposed rules, the agencies would consider a bank's CD activities that benefit or serve areas outside of the bank's assessment area(s) at a bank's option if the bank meets or exceeds the applicable geographic flexibility standard(s) and the other requirements of the proposed section. Proposed § __.13(e)(1)(ii) would provide that a CD activity benefits or serves an area outside of a bank's assessment area(s) if that CD activity does not benefit or serve an assessment area under proposed § __.13(d)(1).

The agencies believe that providing consideration in CRA examinations for CD activities conducted outside of banks' assessment areas could have tangible benefits for banks and communities. Under the proposal, banks would have the flexibility to conduct CD activities outside of their assessment area(s) at their option. This flexibility could help in addressing CRA hotspots and CRA deserts, the phenomena discussed above, which have resulted in CD activities becoming concentrated in some areas and dissipated in others due to the locations of banks and their resulting assessment areas.

While proposed § __.13(e) would provide banks the flexibility to have the agencies consider CD activities that benefit or serve areas outside of a bank's assessment area(s), a bank would not be required to conduct CD activities outside of assessment areas in order to achieve a "satisfactory" or "outstanding" rating because the agencies are not proposing to revise the current framework for concluding on and rating bank performance, which focuses on assessment area activities. The agencies determined that providing banks the flexibility to receive consideration for CD activities outside of assessment areas without imposing a requirement to engage in such activities would appropriately balance the challenges that banks and communities have with the geographic limitations of the CRA and the community focus of the statute.

The agencies recognize that the CRA statute requires the agencies to assess banks' records meeting the credit needs of their entire communities.[186] Building flexibility into the CRA regulatory framework to consider, however, at a bank's option, CD activities conducted outside of assessment areas when a bank has demonstrated that it is helping to meet credit needs in its assessment areas acknowledges both the limits of the agencies' authority under the statute and bank's efforts to meet community development needs. Under the proposal, a bank would be able to obtain a "satisfactory" or "outstanding" rating based solely on its performance in its assessment areas but would also receive consideration in its State-, multistate MSA-, or bank-level ratings for CD activities outside its assessment areas.[187] As described below, the proposal would set forth two options for providing flexibility to consider CD activities outside of assessment areas in proposed section § __.13(e)(2) – (4)—a quantitative option and a qualitative option.

Under proposed Option 1, the quantitative option, § __.13(e)(2) would explain how the quantitative geographic flexibility standard(s) would be calculated on an assessment area basis for large banks, and, separately, intermediate banks, wholesale banks, and limited purpose banks. The proposal would provide that the geographic flexibility standard would be calculated on an assessment area basis for each year in the evaluation period. These standards would establish the level of CD activity that a bank must conduct in order to receive consideration for CD activities

[186] *See* 12 U.S.C. 2903(a) and 2906(a).

[187] The proposal would provide flexibility by retaining the current rating framework in appendix A, which focuses on assessment area performance. *See*, *e.g.*, proposed 12 CFR __, appendix A, paragraph (b)(1)(i).

outside of assessment areas. The principle underlying the quantitative standards is that a bank must demonstrate that it is engaging in activities that meet community credit needs before it is appropriate for the agencies to consider activities that they are not required to assess under the statute. As proposed, if a bank expended a sufficient percent of the bank's tier 1 capital allocated based on the weight assigned to the assessment area toward CD loans, CD investments, and CD grants in all of its assessment areas—as demonstrated by meeting or exceeding the geographic flexibility standards—it would receive consideration for CD activities outside of assessment areas. The proposal would establish as the geographic flexibility standards for large banks 0.625 percent of tier 1 capital for CD loans and the same percent of tier 1 capital for CD investments and grants, collectively. For intermediate banks, wholesale banks, and limited purpose banks, the proposal would establish 1.25 percent of tier 1 capital as the geographic flexibility standard.

If a bank expends the applicable minimum percentage of its tier 1 capital based on the weight assigned to the assessment area, then the bank meets or exceeds the applicable geographic flexibility standard. If the bank met or exceeded the geographic flexibility standard for each of its assessment areas in an area rated for the bank, the appropriate agency would consider the bank's CD activities that benefit or serve areas outside the bank's assessment area(s) in rating its performance at the State-, multistate MSA-, or bank-level.

The agencies based the quantitative standard in Option 1 on their supervisory experience. Historically, the percentage of tier 1 capital allocated across assessment areas by a measure of deposits has been one of the ways used to determine if a bank's dollar amount of CD activities is commensurate with its capacity. The proposed standards generally reflect the minimum level of CD activity, absent consideration of other factors, that a bank would be expected to conduct to not receive a "needs to improve" rating. That said, the agencies recognize that performance context informs the level of activity that banks may conduct. Therefore, proposed Option 1 would retain the agencies' discretion to determine that a bank that conducts a lesser dollar amount of CD activities is nonetheless eligible to receive consideration for CD activities outside of its assessment areas. Proposed Option 1 would not, however, provide the agencies with discretion to require a higher level of CD activities because the geographic flexibility standards are meant to reflect a minimum threshold for broader geographic consideration of CD activities but are not a sufficient basis for concluding on a bank's CD performance in an assessment area. To conclude on a bank's CD performance in an assessment area, the appropriate agency would consider the applicable performance criteria in the performance test or standards, which include consideration of additional factors such as the responsiveness of the CD activities.

For the reasons discussed above, Option 1 for proposed § __.13(e)(3) would provide an exception from the general requirements in proposed § __.13(e)(2)(i) and (ii), which would permit the appropriate agency to determine based on performance context that a bank that extended a lesser amount of CD loans or CD investments and CD grants, as applicable, may nonetheless receive consideration for CD activities outside of its assessment area(s). The agencies believe this provision will reduce burden by allowing for increased flexibility. The agencies invite comment on whether they should develop standards for applying this discretion that explain when they would consider tier 1 capital to be an insufficient measure of a bank's capacity for purposes of determining the geographic flexibility standards, for instance if the bank has a large amount of foreign deposits.

Option 2 for the geographic flexibility standards would establish a qualitative standard for determining whether a bank is eligible for consideration of CD activities outside of its assessment areas. Under Option 2, a bank would meet the geographic flexibility standard for serving the CD needs of an assessment area if the bank has an adequate level of CD activities in the assessment area over the evaluation period, considering the dollar amount and responsiveness of CD activities to assessment area CD needs. This option would rely on the agencies' supervisory experience and performance context factors in assessing banks' CRA performance to determine when a bank has conducted a sufficient level of CD activities in their assessment areas and would align that standard with the level of performance that has historically been considered "low satisfactory" under the current rule. This option aligns with the agencies' current guidance on consideration of CD activities in the broader statewide or regional area that do not have a purpose, mandate, or function of serving the assessment area.[188] The agencies believe that the proposed qualitative standard in Option 2 would leverage the agencies' supervisory experience, provide flexibility to account for performance context factors, recognize different levels of CD needs and opportunities in different areas, and be otherwise consistent with the qualitative regulatory framework in the current rule.

Under both Options 1 and 2, the agencies also considered whether a bank should be required to meet all geographic flexibility standards in all assessment areas to receive consideration for activities outside of its assessment areas and determined that while that is generally appropriate given the statute's focus on communities, if a bank has met the applicable standards in all assessment areas within a State or multistate MSA it may receive consideration for CD activities outside of assessment areas in that State or multistate MSA. The agencies believe this is consistent with the statute, which requires the agencies to separately rate performance in States and multistate MSAs where a bank has deposit-taking facilities.[189] Proposed § __.13(e)(4) would explain how a bank that does not meet or exceed the applicable geographic flexibility standard(s) in all of its assessment areas may receive consideration for CD activities conducted outside of its assessment areas. The agencies are proposing this provision to make clear that consideration of CD activities outside of assessment areas overrides any geographic limitations that would otherwise apply to a bank's CRA examination under the applicable performance tests and standards. The agencies believe that these proposed provisions are the preferable means to establish their approach to consideration of CD activities outside of the bank's assessment area(s) in that they avoid the need for more extensive revisions to the current rules.

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[188] *See* Q&A § __.21(a)—3.

[189] *See* 12 U.S.C. 2906(d).

Proposed § __.13(e)(5) would specify that when assigning a State-, multistate MSA-, or bank-level rating, the appropriate agency would consider CD activities that benefit or serve an area outside a bank's assessment area(s). The agencies are proposing this framework to be consistent with the agencies' current guidance for when a CD activity is considered in evaluating assessment area performance[190] and to acknowledge the CRA's statutory requirement to rate performance in States and multistate MSAs where banks have deposit-taking facilities.[191] The proposal generally would allocate CD activities to States and multistate MSAs consistent with the methodology for allocating activities to assessment areas based on the States or multistate MSAs that activities benefit or serve.

Under the proposal, the geographic flexibility standards would only apply to CD loans and CD investments and CD grants because those activities are measured in dollars and can therefore be quantified. In addition, many banks can more readily engage in loans, investments, and grants outside assessment areas. In contrast, CD services are, by definition, volunteer services performed by a bank employee representing the bank. As a result, CD services are more inherently tethered to geography in that there must be an employee conducting the service. If a bank does not have an employee in an assessment area, the bank is far less likely to conduct a CD service in that area. Conversely, banks are far more likely to conduct CD services in assessment areas where their branch employees are located. Given the more common limitation of CD services to assessment areas, the agencies determined that there was minimal benefit for developing a method for quantifying and allocating CD services and did not include such a provision in this proposal.

As discussed above, the agencies note that proposed § __.13(e) does not require banks to conduct CD activities outside their assessment area(s). The decision to conduct such activities is fully within a bank's discretion. A bank may receive a "satisfactory" or "outstanding" rating

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[190] *See* Q&A § __.21(a)—3.

[191] *See* 12 U.S.C. 2906(d).

based solely on CD activities considered in its assessment area(s). The proposal is focused on providing flexibility to engage in CD activities in order to help address one of the long-standing challenges with the CRA, as discussed above.

The agencies request comment on whether banks that conduct CD activities outside of their assessment areas should receive optional consideration of those activities at the State, multistate MSA, or bank levels. Also, the agencies request comment on whether banks should be required to have met or exceeded the geographic flexibility standard(s) for *all* of their assessment area(s), with or without consideration of an empirical standard, before having the option to receive consideration for those outside assessment area activities.

The provisions proposed in § __.13 are intended to promote transparency and consistency in the CRA. The agencies have made conforming changes throughout the proposed rule, as applicable.

Request for Feedback

Question 34: If the rules were to permit banks to receive consideration for CD activities outside of assessment areas in States, multistate MSAs, or at the bank level without requiring that the bank meet or exceed the geographic flexibility standard(s) in all assessment areas, in determining when consideration would be permitted outside assessment areas, should the agencies rely on the "substantially met" standard in proposed § __.27 or should another standard apply?

F. Strategic Plan

The agencies are proposing substantive and organizational revisions to the strategic plan section aimed at giving full effect to the agencies' original purpose for creating the strategic plan option—providing banks the flexibility to tailor their CRA examinations to their unique business models. The proposed revisions would clarify and simplify the rules, thereby making the strategic plan option a viable choice for more banks. The proposed rules would build out the strategic plan requirements to provide clarity, introduce greater transparency with respect to the agencies' supervisory expectations for strategic plans, and improve the strategic plan approval and amendment processes. Taken together, the proposed changes would make the strategic plan provisions clearer and less burdensome for use by banks, while retaining public engagement to inform plan development and the agencies' decision-making.

In 1995, the agencies added the strategic plan option to the CRA rules as an alternative to being evaluated under the applicable performance tests and standards.[192] Originally, the agencies created the strategic plan option as a vehicle for providing banks with substantial flexibility to tailor their CRA programs. As explained in the 1994 CRA proposal leading to the 1995 CRA rules, the purpose of the strategic plan option was "to provide more certainty and flexibility for those institutions that wish to meet their obligation in a fashion that they believe may not be appropriately assessed by the standard performance tests."[193] The agencies intended through the strategic plan option to preserve "substantial flexibility for [banks] to tailor their CRA programs."[194]

As recognized in the OCC's December 2025 guidance proposing a simplified strategic plan process for community banks,[195] the agencies have received feedback from banks regarding the regulatory burden associated with the CRA stemming from the qualitative evaluation framework provided in the current rules' performance test and standards. Banks, especially smaller banks with limited resources, have indicated that it is difficult to understand CRA-related supervisory expectations. The agencies have also observed that the applicable performance tests and standards may present challenges for certain banks' business models, which are changing in an ever-evolving banking industry.

Despite the fact that strategic plans may serve as a useful method for certain banks to comply with the CRA, the agencies have observed that strategic plans are underutilized.

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[192] 60 FR at 22168.

[193] 59 FR 51232, 51243 (Oct. 7, 1994).

[194] *Id.*

[195] 90 FR 59744 (Dec. 22, 2025).

Feedback on strategic plans indicates that the underutilization may be based on the complexity and lack of clarity in the current rules. Since the agencies view strategic plans as a longstanding but underutilized solution to the challenges inherent in the CRA regulatory framework, particularly in a diverse and evolving banking industry, the agencies are proposing amendments to § __.27 that would: (1) reduce process-related burden for banks through increased clarity, (2) provide additional information regarding the required content of strategic plans, (3) modernize the process for soliciting public comments, and (4) delineate processes for the submission and evaluation of strategic plans, including the methods by which a bank may resubmit a plan in the event of a denial or amend a previously approved strategic plan.

Updates to the structure of the rule. The agencies are proposing to adjust the structure of § __.27 to put like provisions together, leverage other regulatory approval processes, arrange the CRA rules in a more logical format, and ensure that the requirements of the strategic plan approval process are clear. The proposed strategic plan section would include the following sections:

- In general (§ __.27(a))
    - Evaluation (§ __.27(a)(1)): Establishes when the agencies would assess banks pursuant to a strategic plan.
    - Alternative election (§ __.27(a)(2)): Outlines the requirements for electing a strategic plan (i.e., submitting a plan that complies with the section, agency approval of the plan, and plan effectiveness).
    - Treatment of affiliates (§ __.27(a)(3)): Carries forward the option for the preparation of a joint plan between affiliates and the allocation of CRA-qualifying activities between affiliated institutions.
    - Confidential information (§ __.27(a)(4)): Carries forward the provision related to submission of confidential information.

    - Data collection, reporting, and disclosure (§ __.27(a)(5)): Carries forward the applicability of the data collection, reporting, and disclosure provisions of § __.42.
- Content of a strategic plan (§ __.27(b))
    - Plan requirements (§ __.27(b)(1)): Discusses the minimum requirements of what must be included in a strategic plan for it to be considered "technically complete."
    - Plan scope (§ __.27(b)(2)): Requires banks to establish the scope of their strategic plan.
    - Plan term (§ __.27(b)(3)): Carries forward plan term and annual interim measurable goals requirements.
    - Assessment areas (§ __.27(b)(4)): Requires banks to describe the geographic areas covered by their strategic plan; carries forward the option for an assessment area-specific plan or a plan that covers multiple assessment areas.
    - Measurable goals (§ __.27(b)(5)): Carries forward and clarifies the requirements for measurable goals.
    - Satisfactory and outstanding goals (§ __.27(b)(6)): Carries forward the requirements for establishing satisfactory and outstanding goals.
- Public participation in plan development (§ __.27(c)): Carries forwards and modernizes public participation requirements for plan development.
- Prefiling communications (§ __.27(d)): Adds a new provision stating that banks may consult with the appropriate agency regarding proposed strategic plans.
- Submission of plan (§ __.27(e)): Carries forward submission of plan requirements using a plan submission date of 90 calendar days (rather than 3 months) prior to the proposed effective date.

- Plan approval (§ __.27(f)): Carries forward the 60-calendar-day review time frame and adds that the agencies will notify banks of the status of plan submissions by either sending a "technically complete" notice or providing written notice that the plan submission is missing required information. Discusses the criteria for evaluating a proposed strategic plan, and notes that the appropriate agency will publish approved strategic plans on its website.
- Plan denial (§ __.27(g)): Explains the criteria that the agencies use to deny a submitted plan and provides for resubmission of a plan after a denial.
- Plan amendment (§ __.27(h)): Carries forward the ability of banks to request an amendment to an approved plan while it is in effect based on a material change in circumstances.
- Plan assessment (§ __.27(i)): Explains that in assessing performance under an approved strategic plan, the agencies consider performance context, the plan's stated measurable goals, and the criteria specified in Appendix A. Notes that if a strategic plan includes both satisfactory and outstanding measurable goals, the appropriate agency will consider the bank eligible for an "outstanding" rating. Also notes that if a bank fails to achieve outstanding measurable goals the appropriate agency will consider CD activities not assessed in connection with any measurable goal in determining whether to consider the measurable goals to be substantially met for purposes of eligibility for an "outstanding" rating.
- Converting institutions (§ __.27(j)): Explains that for banks that have converted while operating under an approved strategic plan, the appropriate agency will assess performance under the existing plan if the appropriate agency determines approval was consistent with the requirements of this part and no amendments are necessary pursuant to paragraph (h) of this section.

- Use of standard performance tests if satisfactory goals not substantially met (§ __.27(k)): Explains that in order to decrease regulatory burden, the agencies will automatically evaluate a bank under the otherwise applicable performance tests or standards rather than based on its approved strategic plan if a bank fails to substantially meet its measurable goals for a "satisfactory" rating under its approved plan.

Strategic plans, in general. Section __.27(a) of the current rules contains evaluation and alternative election provisions that explain when the agencies would evaluate a bank under a strategic plan. Proposed paragraph (a) groups together provisions on the applicability of a strategic plan and includes provisions on: treatment of affiliates; confidential information; and data collection, reporting, and disclosure.

Content of a strategic plan. Section __.27(b) specifies the required content for a plan to be considered technically complete including a general description of the bank, the plan scope, the plan term, the covered assessment areas, measurable goals, any relevant performance context factors, a description of informal and formal efforts to seek suggestions from members of the public, and a copy of any written public comments received. In addition, § __.27(b) contains provisions regarding plan scope and plan term.

Regarding the measurable goals requirements, under the current rule, the plan content provisions set forth the requirement that strategic plans specify measurable goals for helping to meet the credit needs of each assessment area covered by the plan, particularly the needs of LMI geographies and LMI individuals, through lending, investment, and services, as appropriate. The section then provides additional detail on the requirements for measurable goals and where there would be flexibility to consider a bank's particular circumstances.[196] The current measurable

[196] The current rules provide that a bank must address in its plan all three performance categories and, unless the bank has been designated as a wholesale or limited purpose bank, must emphasize lending and lending-related activities. *See* current 12 CFR __.27(f)(1)(ii). Nevertheless, a different emphasis, including a focus on one or more performance categories, may be appropriate if it is responsive to the characteristics and credit needs of the bank's

goals provision has caused significant confusion over time and led to diverging interpretations of what is required under the rules. This confusion is due, in part, to the use of mandatory (*i.e.*, “shall address in its plan all three performance categories”) and non-mandatory (*e.g.*, “[n]evertheless” and “may be appropriate”) language in the same paragraph. This, coupled with undefined terms, such as what it means to “specify” goals in performance categories as opposed to “address” performance categories has made it challenging for banks to understand the requirements for specifying measurable goals and where the intended flexibility is in the strategic plan option. This issue has only been exacerbated by the agencies’ policy of not providing guidance or feedback on the adequacy of a plan or the merits of measurable goals prior to submission of the plan for approval. This lack of clarity is a primary reason that the strategic plan option is viewed as involving more cost than benefit for many banks.

To address the concerns with the current plan content section, and particularly the measurable goals provision, the agencies are proposing the structural changes discussed throughout this SUPPLEMENTARY INFORMATION, along with certain substantive changes aimed at clarifying the current rules and reducing burden. The agencies have determined that decoupling the requirements for specifying measurable goals from the discussion of the flexibility to tailor a plan to a bank’s circumstances would reduce some of the seeming internal conflict in the current measurable goals provision. Accordingly, the measurable goals provision would be discussed in § __.27(b)(5) and tailoring based on performance context would be discussed in § __.27(b)(1)(vi), referencing § __.21(a) and (b).

Regarding the plan term provision, the proposal would move the current plan term requirements to the content of a strategic plan section in § __.27(b)(3) without substantive changes. The agencies determined that the plan term should be included in the content of a strategic plan section as it would be specified in the plan. The proposal would also add a

assessment area(s), considering public comment and the bank’s capacity and constraints, product offerings, and business strategy. *See id.*

requirement in § __.27(b)(4) that a strategic plan describe the assessment area(s) covered. The proposed provision would specify that the assessment area description must be comprised of whole geographic areas (*e.g.*, one or more contiguous counties or an MSA) so that the agencies would be able to readily determine whether an area would be covered by the plan. This requirement is also intended to be burden reducing because it would not require a bank to provide a list of census tracts unless the geographic area covered by the plan is less than one or more contiguous counties. The agencies are also proposing to include this requirement for strategic plans to describe the assessment areas covered based on their supervisory experience reviewing strategic plans. Strategic plans are bank-specific and assessment area-specific documents. As a result, approving a plan and evaluating a bank under an approved plan requires understanding of the geographic areas covered by the plan. Requiring assessment areas covered by a plan to be described in the plan itself would promote transparency and clarity for banks, the agencies, and the public. The plan content provision would also include the current provision allowing banks to have a single strategic plan that includes all of a bank's assessment areas or to have separate strategic plans for each assessment area.

The agencies invite comment on these aspects of the proposal and whether there are other changes that the agencies should consider regarding assessment areas and the requirement to include whole geographies.

Measurable goals. The proposed measurable goals provision in § __.27(b)(5) would require strategic plans to specify measurable goals for helping to meet the credit needs of each assessment area covered by the plan, including the needs of LMI census tracts and LMI individuals, consistent with the current rule. These provisions also require that a multi-year strategic plan must include annual interim measurable goals for each year in the plan term. It would also add a provision clarifying that strategic plans may specify measurable goals that cover the plan's term. If a bank only specifies annual interim measurable goals, the measurable goals for the entire plan term would, in effect, be the aggregate of those annual goals. A bank may choose, however, to specify measurable goals for the entire plan term that differ from the annual interim measurable goals by, for example, establishing a single larger goal that exceeds the aggregate of the annual interim measurable goals to provide flexibility in the plan.[197]

To provide greater clarity regarding what measurable goals include, the proposed rules would leverage terminology from the OCC's proposed community bank simplified strategic plan process.[198] Specifically, the proposal would clarify that measurable goals must have a: (1) performance measure (*e.g.*, percentage, number, dollar amount, or other quantifiable measure of a particular type of lending, investment, grant, or service); and (2) performance level (*i.e.*, the specific value for a performance measure, such as a set percentage of lending by dollar amount or by number of loans). These changes are intended to help clarify how measurable goals should be structured. As discussed below, the strategic plan provision also provides flexibility for the agencies to consider activities outside of a bank's assessment areas in certain circumstances. Lastly, as part of the decoupling of the measurable goals and tailoring provisions, the proposal would clarify that a strategic plan must include the bank's rationale and support for the specified measurable goal(s). The agencies believe that these provisions would more clearly set forth the requirements for strategic plan measurable goals, which, along with other provisions, should help reduce regulatory process-related burdens. Under the proposal, banks would have a clearer understanding of the requirements for a strategic plan and an improved ability to engage with the appropriate agency, as discussed below, which should allow banks to be more efficient in their plan development. The agencies invite comment on these aspects of the proposal and whether there are other changes that the agencies should consider.

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[197] For example, a bank could specify the following annual interim measurable goals—plan year 1 ($1 million in CD loans), plan year 2 ($1.1 million in CD loans), plan year 3 ($1.25 million in CD loans), plan year 4 ($1.45 million in CD loans), and plan year 5 ($1.7 million in CD loans)—and a measurable goal of $7 million for the plan term. The aggregate of the annual interim measurable goals would be $6.5 million, meaning that the bank would have flexibility to conduct some or all of the addition $500,000 needed to meet the measurable goal for the plan during any of the plan years.

[198] 90 FR at 59748-49.

The plan content section would also include the requirement that a bank specify satisfactory measurable goals and, at the bank's option, specify outstanding measurable goals. This provision incorporates this approach from the current rule. In addition, the proposal would add a provision for consideration of CD activities outside of the bank's assessment area that is meant to be consistent with the broader changes to outside assessment area consideration of CD activities in the proposal. The proposal would provide that if a bank fails to achieve one or more of its outstanding measurable goals, the appropriate agency would consider the bank's CD activities not otherwise assessed in connection with any measurable goal in determining whether to consider the measurable goals to be "substantially met" and the bank's eligibility for an "outstanding" rating. The agencies believe this is consistent with the broader changes to the consideration of CD activities because it would not require a bank to do any CD activities outside of its assessment area. A bank could achieve a "satisfactory" or "outstanding" rating by substantially meeting the goals in its plan. However, the proposal would provide flexibility to consider activities outside an assessment area in circumstances where it has performed at a satisfactory level in its assessment areas based on consideration of its plan goals. This flexibility is not intended to override the outstanding measurable goals specified in the plan. Specifically, if a bank failed to meet each or the most significant measurable goals in its plan, it would not be appropriate to rate the bank "outstanding" based on activities conducted outside of its assessment areas. However, if a bank met one or more of its plan goals for outstanding and the appropriate agency was weighing whether the goals had been "substantially" met, consideration of performance context and CD activities outside of a bank's assessment areas could appropriately be considered in concluding that the bank had substantially met its outstanding measurable goals to warrant an "outstanding" rating.

The agencies invite comment on these aspects of the proposal and whether there are other changes that the agencies should consider to clarify the measurable goals provision.

Public participation in plan development. Under the current rule, there are two public participation requirements during the development of a draft strategic plan—(1) informal public feedback; and (2) formal public comment. These requirements are included in the plan approval section of the current rules. The agencies are proposing to move the public participation requirements to their own section, proposed § __.27(c), to improve the structure of the rule. Functionally, the public participation requirements must be completed before a strategic plan may be submitted to the agencies for approval and setting them apart in their own section recognizes the importance of public participation in the strategic plan development process while also clarifying where they fit in the process.

In proposed § __.27(c), the agencies are seeking to modernize the public comment process and improve the likelihood that interested parties can meaningfully engage in the development of a bank's strategic plan. The proposed revisions would add transparency by requiring the appropriate agency to post a proposed strategic plan on its website during the formal comment period (discussed below), while maintaining the existing methods of public engagement. The agencies believe this revision would help ensure actual notice of proposed strategic plans given the significantly increased availability and use of the internet.

Under the proposal, banks would continue to: (1) informally seek public feedback during development of a strategic plan; and (2) formally solicit public comment for at least 30 days by publishing notice in at least one newspaper of general circulation in each assessment area covered by the plan. The proposed rules would continue to specify that banks should make strategic plans available at no cost (such as by referring interested parties to bank and agency websites), and if a bank provides hard copies, it may still charge reasonable fees for copying and mailing. In addition, banks would be required to provide a draft strategic plan to the appropriate agency, which will publish the plan on its public website. The proposal also provides that the agencies would direct the public to provide comments on the draft strategic plan to the bank. The agencies believe that enhancing the public engagement process by requiring that draft strategic plans be posted on the appropriate agency's website will help facilitate banks' development of their strategic plan. In light of the modernization of publication methods for soliciting public comment, the proposed amendments reduce burden for banks by doing away with the requirement for banks to make plans available at all offices in all assessment areas. In developing the proposed revisions to the public engagement provisions, the agencies considered permitting banks to post proposed strategic plans to their websites instead of in newspapers. The agencies are not proposing this option because they determined that having varied processes depending on a bank's choice may lessen actual notice of the public comment period for interested parties due to a lack of consistency.

The agencies invite comment on the proposed changes to the public engagement provisions of the strategic plan process and whether there are other changes that the agencies should consider.

Prefiling communications. The agencies are proposing this new section of their rules in order to make it clearer that a bank may consult with the appropriate agency about their draft strategic plan and that the agencies intend to be more forthcoming with substantive feedback. For example, under the proposal the agencies would consult with banks on whether the level of detail in the draft plan is sufficient for the agency to evaluate the plan and the merits of the proposed measurable goals. This provision is being added in light of feedback the agencies received from banks that it is difficult to develop a plan, especially for small banks, in the absence of collaborative discussions with their supervisory agency.

Although the Interagency Questions and Answers explain that banks may consult with the appropriate agency on the procedures for requesting approval of a strategic plan and the information necessary to ensure a complete submission, the Interagency Questions and Answers also state that the consultation will not include commenting on the merits of a plan or the adequacy of measurable goals.[199] The lack of clarity regarding the process has been a

[199] *See* Q&A § __.27(c)—1.

contributing factor in the underutilization of the strategic plan provision. The agencies, however, have extensive experience with reviewing and approving applications and requests in other contexts—such as corporate applications—and considered those processes and their features. The agencies determined that incorporating a formal prefiling consultation process into the strategic plan provision and changing their policy on preliminary guidance on the adequacy of the plan would be a significant process improvement for reforming the current burdensome process. The agencies believe that providing preliminary guidance on the adequacy of a plan will allow banks to improve the quality of submissions and lessen the time it takes to develop a plan for public comment. The agencies would not formally review a strategic plan until the proposed plan is submitted to the agency for approval under § __.27(e).

The agencies invite comment on the proposed prefiling consultation provision, including whether this process should be required instead of being made available at the bank's option.

Submission of plan. The plan submission provision in the proposed rules is largely based on the current provision with two substantive changes. First, in order to reduce regulatory burden related to getting plans approved and the potential impact of the timing in the current regulation, the agencies are proposing to reserve their authority to adjust the time frames for submissions of proposed strategic plans and their effective dates. While banks should typically submit their plans at least 90 calendar days prior to a proposed effective date, upon request, the agencies may accept and approve a plan submitted less than 90 calendar days prior to the proposed effective date of the plan. The agencies also are proposing to change the phrase "three months" to "90 calendar days" for clarity and consistency in timing. The requirement to provide the agencies with earlier drafts of plans is proposed to be eliminated to reduce burden given that the appropriate agency will have received a copy of the pre-comment draft for publication on the agency website.

The agencies invite comments on these changes and whether there are any other submission process changes that should be considered, including changes to the timing of submissions and whether less time is needed for the agencies' approval process.

Plan approval. The agencies are proposing several changes to the strategic plan approval process to improve clarity with the goal of reducing process-related regulatory burden. As discussed above, the agencies are proposing moving the public participation provisions to paragraph (c) in order to improve the structure of the rule. Additionally, the agencies are proposing changes regarding providing notice when the appropriate agency determines a submitted plan is "technically complete." Under the current rules, a strategic plan is deemed approved if the appropriate agency does not act within 60 calendar days of receiving a "complete plan." The current rules do not explain what constitutes a complete plan and this lack of clarity has resulted in confusion in the decisioning of strategic plans. To clarify the plan approval process, the proposed rules would include new paragraph (f)(1), *notice of complete plan*, which would indicate the appropriate agency will send a written communication when it determines that a submitted strategic plan is technically complete in accordance with § __.27(b)(1). If, on the other hand, the appropriate agency determines that a proposed strategic plan is incomplete, the agency will send a written communication indicating why it considers the plan to be incomplete and what additional information is needed. This section is proposed based on feedback the agencies received indicating that it was sometimes unclear whether a plan was "complete" and whether the 60-day review period had begun such that the plan would be approved or denied by the end of the following 60-day period. The addition of a technically complete notice determination would promote timely review of strategic plans because, as with the current rule, the 60-day review clock does not start until the appropriate agency has received a complete plan. In proposing this new provision, the agencies are also clarifying that the approval clock starts when a proposed strategic plan is deemed "technically complete." The addition of the term "technically" is to clarify that minor omissions or other issues with a proposed strategic plan will not delay the approval process.

The proposal would retain the agencies' ability to extend the review period prior to it lapsing if done in writing and for good cause. The agencies, however, are also proposing to add a clarifying statement indicating that if a plan is approved after its proposed effective date, it would become effective at the time of approval. The agencies decided to add this language to address uncertainty that has arisen in certain circumstances. Specifically, because the current rules only reference including a "proposed effective date," questions have arisen regarding the actual effective date when the appropriate agency determined a plan was not "complete" or when the appropriate agency extended the review time resulting in the plan being approved after the proposed effective date. The proposed clarifying statement regarding the ability to request effective dates that are less than 90 calendar days from the date of plan submission and the addition of the technically complete notice are meant to provide clarity in these circumstances while also building in flexibility where appropriate. The agencies invite comment on these clarifications to the submission and approval timing as well as if there are ways to clarify these provisions.

The proposal largely carries forward the current criteria for evaluating a proposed strategic plan with one substantive clarification and certain other technical and conforming revisions. Specifically, in § __.27(f)(3) involving the criteria for evaluating a proposed strategic plan, a new paragraph (v) is proposed to document the agencies' existing approach of considering performance context in evaluating a submitted plan. This paragraph was added to emphasize the importance of performance context in reviewing and approving strategic plans and to connect the approval of a strategic plan to the tailoring referenced in § __.27(b)(1)(vi). At its core, a strategic plan is a tool that enables a bank to customize its CRA examination to its unique circumstances and the needs of its community; therefore, these circumstances and community needs are integral to the agencies' determinations of whether the proposed measurable goals and other plan terms are appropriate and should be approved. This new provision emphasizes that fact and ensures that the proposed measurable goals are considered in this broader context.

In § __.27(f)(4), which addresses publication of approved plan, the agencies are also proposing to require that, in the interest of more publicly available information, the appropriate agency will publish approved plans on its website. This provision is codifying current OCC practice of publishing strategic plans on its website. In the OCC's supervisory experience, this practice has proven useful to other banks and stakeholders. Under the proposal, the FDIC would adopt this practice.

Plan denial. The agencies are also proposing to add a new paragraph indicating the reasons the appropriate agency may deny a proposed plan and the process for resubmission. In the agencies' experience, part of the reason banks consider the strategic plan option to be unduly burdensome is the opacity in the agencies' decision-making processes. This stems from uncertainty about what is required to be included in a plan and a lack of specificity in how the criteria for evaluating a plan are applied. This proposed provision is intended to help clarify those points based on the agencies' supervisory experience in determining when they have sufficient information to evaluate the plan and what factors identified during the evaluation have led to concerns. By also providing a process for resubmission, the agencies aim to provide banks with a process for curing deficiencies.

Under the proposal, the agencies may deny a proposed strategic plan if: (1) the plan's measurable goals do not adequately address the credit needs of the assessment area(s) covered by the plan as evaluated under the criteria described in paragraph (f)(3) of this section; (2) the plan's measurable goals are not consistent with the safe and sound operations of the bank as described in § __.21(d); (3) the bank did not comply with the public participation process described in paragraph (c) of this section; (4) the plan otherwise fails to meet the requirements of this section; or (5) the bank fails to provide requested information to the appropriate agency.

As noted above, the agencies are also adding a new provision that addresses the resubmission of a proposed strategic plan after denial. Similar to the ability of the agencies to return a filing as materially deficient in the application context, the agencies are proposing to add this provision to allow a bank to cure deficiencies in an otherwise compliant proposed strategic plan without having to repeat the process in full. Nonetheless, the new provision would provide that the agencies retain the discretion to require a bank to repeat one or more of the requirements of the section in whole or in part. The resubmission provision would also apply the review period provision discussed above to all resubmitted proposed strategic plans. The agencies invite comment on the proposed plan denial section and if there are additional factors or clarifications that would further improve banks' understanding of the agencies' decision-making process.

Plan amendment. The current rules provide banks with the option of amending their strategic plans if there has been a material change in circumstances. The current rules do not define or explain what constitutes a material change in circumstances, which has often resulted in questions about whether a plan amendment is permissible. In § __.27(h), the agencies are proposing to revise the current plan amendment provision to clarify the types of material changes that may be covered in this provision: a merger or consolidation, a change in the bank's assessment area(s), a change in the bank's business strategy, or a change in institutional capacity or constraints that serve as an impediment in the bank's ability to achieve a satisfactory level of performance.

The current rules also require a bank to develop a plan amendment in accordance with the rules' public participation requirements. The burden of this process requirement may deter banks from amending their plans when it would be advantageous to do so. To address this concern and encourage banks to make appropriate amendments, the proposal would instead provide that the appropriate agency may require, in its sole discretion, that a bank develop an amendment to an approved strategic plan in accordance with any of the process requirements of this section. This provision provides the agencies with discretion to determine when a requirement of the strategic plan section, including the public engagement provision, should apply to a bank's amendment to its approved plan. The proposal further provides that the agencies would determine whether to require a bank to comply with a provision in the strategic plan section in developing an amendment based on the extent of the amendments to the plan. Essentially, the agencies generally would not require banks to comply with process requirements for more targeted changes, such as removing plan goals for an assessment area that is no longer required because the bank closed its branches in an area. In contrast, the agencies may require banks to follow certain process provisions for more extensive amendments.

Plan assessment. The agencies are proposing to revise the current section on plan assessment to clarify the rule, conform with other changes discussed above, and to permit banks that engage in conversions to continue to be evaluated under a strategic plan approved by one of the other Federal banking agencies, subject to the appropriate agency's approval. In § __.27(i), the proposal would clarify that the agencies assess the plan based on the entire term of the plan as opposed to on interim measurable goals, and that the agencies consider performance context in their assessments. These changes are intended to be clarifying. Under the current rules, the agencies have assessed banks' performance based on interim annual goals, but permitting this can have anomalous effects if a bank performs better in certain years than in other years. In those circumstances, whereas the bank may have been considered to substantially meet its strategic plan goals when the plan was assessed as a whole, the bank may not substantially meet the plan's goals if the goals are assessed in segments. Lastly, the agencies are proposing to add a provision referencing the consideration of performance context in strategic plan assessments. This clarifies the agencies' current practice. Although the current rules only references the consideration of performance context in approving strategic plans, in practice the agencies have considered performance context in assessing strategic plans as well. Specifically, performance context is implicitly considered in the determination of whether a bank has "substantially met" its plan goals. The addition of this and other conforming provisions is intended to make this clear. The agencies invite comment on the plan assessment provisions. The agencies also invite comment on whether the rules should provide for an exception from the general requirements in proposed § __.21(a)(5) and § __.27(i), which state that the appropriate agency evaluates a bank's performance under a strategic plan at the end of the plan's term based on the measurable goals specified in the plan, including any annual interim measurable goals.

Converting institutions. In proposed § __.27(j) on converting institutions, the agencies are proposing the addition of a provision clarifying that for institutions engaged in a conversion, the appropriate agency will assess performance under a strategic plan approved by another agency if the appropriate Federal financial supervisory agency determines the approval was consistent with the requirements of this section and no amendments are necessary pursuant to paragraph (h)(2) of this section. The intent of this provision is to clarify that converting institutions, provided their approved strategic plans are consistent with the requirements of this part, will not need to submit their strategic plan for approval or develop a new plan as a result of a conversion.

Finally, in proposed § __.27(k) regarding the use of standard performance tests if satisfactory goals are not substantially met, the agencies are updating the default rule regarding consideration of standard performance tests to reduce burden for banks. As opposed to including this provision as a component of a strategic plan only applied at the bank's election, the agencies determined that this provision should be applied as a general default rule. Under this provision, the agencies will automatically consider a bank's performance under the otherwise applicable performance tests or standards if a bank fails to meet substantially its plan goals for a "satisfactory" rating. The agencies determined that this treatment was appropriate because the tests and standards reflect the agencies' general approach to assessing CRA performance. If a bank would be considered "satisfactory" under those tests, it likewise should be considered "satisfactory" even when having elected to use a strategic plan. Requiring a bank to affirmatively elect this default when it first considers using a strategic plan fails to account for the fact that banks do not set goals with the intent of missing them. A bank that would otherwise be considered “satisfactory” under the CRA should not be penalized for its choice to consider an alternate evaluation method or for optimism regarding its ability to meet its goals. The agencies seek feedback regarding whether a bank should be required to be evaluated under standard performance tests if satisfactory goals are not substantially met or if this evaluation should be at the bank’s election.

Request for Feedback

Question 35: Are there any reasons the agencies should or should not require strategic plans to include whole political subdivisions, such as in circumstances where a bank cannot reasonably serve the whole area?

a. Does the nature of a strategic plan in which performance goals are determined in advance mitigate these concerns?

b. Are there alternative approaches the agencies should consider? For example, should a bank be allowed to use a radius around its branches to identify its assessment areas, similar to the changes being considered regarding the current “substantial portion of its loans” standard of § __.41(c)(2), discussed in section IV.I of this SUPPLEMENTARY INFORMATION?

Question 36: With respect to strategic plans and otherwise, should the rules provide the maximum size of an assessment area, such as the combined statistical area or future equivalent?[200]

Question 37: Should the agencies require that banks include maps of each assessment area covered by their strategic plans in the plan?

Question 38: Do the proposed changes to the strategic plan measurable goals provision adequately explain what elements need to be included in a strategic plan? Are there other elements that should be added to better clarify the components of measurable goals, such as a growth factor for interim annual goals?

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[200] The reference to future equivalent is included because the terms used to identify metropolitan areas in the statute have been revised over time. *See* 89 FR at 6614-6615; 12 U.S.C. 2906(e)(2).

Question 39: Does the clarification that banks may include measurable goals that cover the entire term of a strategic plan, in addition to the annual interim measurable goals, provide appropriate flexibility to a bank developing a strategic plan?

Question 40: Should banks be required to have measurable goals for the entire term of the plan in addition to annual interim measurable goals?

Question 41: In assessing a bank's performance under a strategic plan, how should the agencies weigh consideration of annual interim measurable goals versus measurable goals that span the entire term of the plan?

Question 42: Should the agencies consider developing and applying a process similar to that discussed in the OCC's *Simplified Strategic Plan Process for Community Banks*, which provides elective goals and other guidance for developing a strategic plan for all banks? If so, should the process be implemented through guidance or codified in the rules?

Question 43: Does the proposed approach for the consideration of CD activities outside of a bank's assessment area(s) under the strategic plan (*i.e.*, considering CD activities not otherwise considered in connection with any measurable goals in determining if the bank should receive an "outstanding" rating) provide appropriate flexibility for the agencies to consider these activities?

Question 44: Should the rules permit the agencies to consider CD activities not otherwise considered in connection with any measurable goals in concluding on whether the bank should receive a "satisfactory" rating?

Question 45: Should consideration of CD activities not otherwise considered in connection with any measurable goals be at the bank's election or should the appropriate agency be required to consider these activities?

Question 46: Should banks be permitted to specify measurable goals for CD activities outside of their assessment area(s)? If so, should goals for CD activities outside of assessment area(s) be limited to outstanding measurable goals?

Question 47: Should the agencies require that a bank provide a draft strategic plan to the appropriate agency a certain number of days before the beginning of the public comment period to allow time for publication? If so, is 5 business days reasonable or would more time be necessary to ensure alignment of the agency's publication and the start of the comment period?

Question 48: Do the proposed changes to the strategic plan public engagement provisions strike the proper balance between providing notice to the public and modernization of the public comment process? Are there other ways to modernize the public engagement process while ensuring impacted communities have notice of proposed strategic plans?

Question 49: Does the proposed strategic plan prefiling communications provision provide the appropriate opportunity for a bank to seek guidance on a draft strategic plan without implying preapproval? Should the prefiling communications provision include any process requirements, such as timing requirements?

Question 50: Should the agencies allow strategic plans that are approved after the proposed effective date to go into effect as of the approval date? Should the effective date be the proposed date in the plan even if that date is in the past?

Question 51: If the appropriate agency extends the review period for a proposed strategic plan based on good cause are there any parameters that would be helpful to include in the extension such as adding a cap on how long the appropriate agency may extend the review period? If so, should the cap be 15 calendar days, 30 calendar days, or a time frame specified in the written communication extending the review?

Question 52: With respect to a strategic plan amendment, should the list of types of material changes in circumstances provided in the proposed rules be a non-exhaustive list, as proposed, or an exhaustive list? Should additional types of material changes in circumstances be provided in the final rules? Should the final rules address what does not constitute a material change in circumstances?

Question 53: Should the agencies include more detail on when a measurable goal or measurable goals in the aggregate do not adequately address the credit needs of the assessment areas? For example, while a particular measurable goal may be appropriate based on a bank's circumstances, the agencies may determine that in the aggregate the measurable goals are inadequate to address the credit needs of the bank's assessment area(s).

Question 54: Do the proposed rules provide sufficient clarity regarding the circumstances under which the agencies may deny or require the resubmission of a bank's request for a strategic plan while also allowing enough flexibility to consider the varied circumstances that arise? Would greater specificity in the plan denial or resubmission process help to further reduce process-related regulatory burden stemming from lack of clarity?

G. Data Collection, Reporting, and Disclosure

Current § __.42 requires banks that are not small banks (including intermediate small banks) to collect, maintain, and report certain data. With respect to the proposal, the agencies intend to keep most data requirements the same. However, the agencies are proposing certain modifications to require the: collection and maintenance of information about CD activities; reporting information about the recipient and amount of CD grants; and collection and maintenance of consumer lending data for large banks with consumer lending evaluated as a major product line. Under the proposal, the agencies would also permit a waiver of data collection requirements that would not be necessary for evaluating a bank's performance or more than minimally useful to the agencies' overall data collection.

As previously noted in the discussion of asset thresholds, the agencies are proposing to raise the small bank and large bank thresholds to $1 billion and $10 billion, respectively.[201] If adopted, similar to current rules, the proposed small banks and intermediate banks (including

[201] *See* section IV.A of this SUPPLEMENTARY INFORMATION.

small banks and intermediate banks that are wholesale or limited purpose banks) would be excluded from requirements to collect, maintain, or report data under proposed § __.42.

Small business and small farm data. With respect to the small business loan and small farm loan data requirements in current § __.42(a) and (b)(1), the agencies are not proposing substantive changes to the current data requirements. Banks subject to the requirements will report the same data in a machine-readable form as prescribed by the agencies.

The agencies are aware that the Consumer Financial Protection Bureau has recently amended its rule regarding small business data authorized under section 1071 of the Dodd-Frank Act (Section 1071 Final Rule).[202] The agencies anticipate that, before or after section 1071 data are available under the Section 1071 Final Rule, there will likely be an opportunity for the agencies to amend their CRA rules to eliminate or minimize any duplicative data collection, maintenance, or reporting requirements that would otherwise be imposed on covered banks through the Section 1071 Final Rule. To the fullest extent feasible, the agencies intend to leverage section 1071 data and discontinue duplicative CRA data collection and reporting requirements.

The agencies request comment on opportunities to minimize duplicative data requirements under the current and proposed CRA data requirements for small business loans and small farm loans and the Section 1071 Final Rule requirements that will eventually become applicable to banks covered under that rule. The agencies also invite perspective on whether it is feasible to partially or fully discontinue CRA data collection for small business loans and small farm loans and rely exclusively on section 1071 data that will be collected, maintained, and reported by banks covered under the Section 1071 Final Rule.

CD loans, investments, and grants data. Current § __.42(b)(2) requires banks that are not small banks to collect, maintain, and report the aggregate number and aggregate amount of CD

[202] 91 FR 23530 (May 1, 2026).

loans originated or purchased by the bank. Currently, the Interagency Questions and Answers provide that a bank that seeks consideration for CD activities must be prepared to demonstrate the activities' qualifications but this can be provided in a format of the bank's choosing.[203] Regarding data about a bank's individual CD loans and CD investments, examiners currently rely on loan level and investment level information provided by a bank at the time of an examination, including the number and dollar amount of loans and investments, the location of or areas benefited by these activities, and information describing the CD purpose for each CD loan and investment.[204] Data collection, maintenance, and reporting requirements for this information is not included in the current rules. As a result of the lack of data collection and reporting of individual CD loans and CD investments, the total number and dollar amount (originated and on-balance sheet) of such loans and investments nationally, or within specific census tracts, is not available through reported data.

CD loan, CD investment, and CD grant information required to be collected and maintained. In proposed § __.42(a)(2), large banks (including wholesale and limited purpose banks that meet the requirements to be considered a large bank) will be required to collect and maintain in a machine-readable form until the completion of their next CRA examination data related to CD loans, CD investments, and CD grants. This requirement would be similar to current requirements for small business and small farm data and will improve the efficiency of CRA examinations because information that examiners currently obtain during the examination will be available in a machine-readable form. The data will include: a unique number or alpha-numeric symbol that can be used to identify the relevant loan, investment or grant; recipient's name, recipient's address, the dollar amount of the loan, investment, or grant; the location (*e.g.*, assessment area(s), State, or multi-state MSA) benefitting from the loan, investment, or grant; an

[203] *See* Q&A § __.12(h)—8; *see also* current 12 CFR __.21 and __.26.

[204] *See* Q&A § __.22(b)(4)—1.

indicator whether a loan or investment involves complexity; an indicator of the loan, investment, or grant's CD purpose; and an indicator whether the activity is a loan, investment, or grant.

Additional CD grant information required to be maintained. Under § __.42(a)(3) of the proposal, large banks would have to collect and maintain additional information to demonstrate that grants and donations qualified as a CD grant. Specifically, this information would include the recipient's written commitment to use the funds for specific projects, programs, or initiatives, in the bank's assessment area(s); the recipient's written attestation that the recipient's indirect costs for administering the grant or donation will not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard; and documentation provided by the recipient supporting the attestation, including the recipient's IRS Form 990 (Return for Tax Exempt Organizations) with annual operating and program budgets.

This requirement would provide clarity and transparency regarding agency expectations for the information required to demonstrate that a grant or donation qualifies for CD consideration. The agencies invite comment on whether they should provide, in rule or guidance, additional means through which a bank may demonstrate that a CD activity has a primary purpose for community development. For example, should the agencies provide an optional template for collecting CD activity information for use in CRA examinations that would outline the information the agencies need to determine whether an activity is a CD activity.

Additional CD grant information required to be reported. In addition, large banks would be required under proposed § __.42(b)(2)(ii) to collect, maintain, and report additional data regarding CD grants, including the recipient of the grant, the recipient's street address, and the dollar amount of the grant. The agencies would expect to maintain a public database of this data. The agencies invite comment on whether the agencies should maintain a public database of this data. The agencies also invite comment on whether they should require the bank to report the recipient's address as proposed, or if an eleven-digit geocode (which provides census tract information) is sufficient.

Consumer lending data. Under current § __.42 banks are not required to collect, maintain, or report consumer loan data. Current § __.42(c)(1) provides banks with the option to collect and maintain data for consumer loans originated or purchased by the bank for consideration under the lending test. A bank may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, other secured, and other unsecured. If the bank maintains data for loans in a certain category, it must maintain the data for all loans originated or purchased within that category and must collect and maintain the data in a machine-readable form. The data must be maintained separately for each category of loans including for each loan: (1) a unique number or alpha-numeric symbol that can be used to identify the relevant loan file; (2) the loan amount at origination or purchase; (3) the loan location; and (4) the gross annual income of the borrower that the bank considered in making its credit decision. The data collected and maintained are not reported but provided to examiners at the time of a bank's CRA examination.

As discussed in section IV.B of this SUPPLEMENTARY INFORMATION, in the proposed rule, large banks for which consumer loans are a major product line will be evaluated based on their consumer lending. Accordingly, the agencies are adding a requirement that such banks collect and maintain consumer loan data in proposed § __.42(a)(4). Also, because the agencies will evaluate all types of consumer lending in the aggregate under the major product line standard, the agencies propose to revise the data collection provision for consumer lending to include consumer lending data for all categories. The other consumer loan data collection and maintenance requirements under the current rules will remain substantively the same.

The agencies invite comment on whether, to the extent the agencies continue to allow banks to opt into a consumer lending evaluation, the agencies should retain provisions relating to the optional collection and maintenance of consumer lending data.

Determination to not require data based on specific circumstances. Proposed § __.42(h) would codify the appropriate Federal financial supervisory agency's authority to exempt a bank from one or more of the requirements to collect, maintain, or report data under proposed paragraphs (a) through (f) of this section. The agencies propose the codification of this authority in recognition of the fact that in certain circumstances, the collection, maintenance, and reporting of data by a bank may be irrelevant to the assessment of a bank's CRA performance. In instances where the collection, maintenance, and reporting of data are not necessary to assess a bank's CRA performance and would not have more than a minimal impact on the agencies' aggregate data collection, the agencies believe that it is appropriate to consider providing relief from unnecessary recordkeeping and data reporting requirements. The codification of this exemption provision will allow the agencies to provide, when warranted by the facts and circumstances, targeted burden relief to banks from data reporting and recordkeeping requirements.

The agencies note that they would generally expect use of this waiver to be rare. For example, the agencies may grant a waiver for a wholesale or limited purpose bank that is required to report limited small business and small farm data for loans made on an accommodation basis. Since the agencies consider small business and small farm data to be a single data set, the agencies would not expect to grant a waiver of small business or small farm data reporting because either small business or small farms loans are not a major product line, however. The agencies invite comment on whether the agencies should provide examples of when they may be willing to exempt a bank from certain data collection, maintenance, or reporting requirements, such as when neither small business nor small farm lending is a major product line.

H. Public File & Public Notice

Public file. Pursuant to § __.43 of the current rules, a bank is required to maintain a CRA public file containing certain information related to the bank's CRA performance (*e.g.*, branch and branch services information, assessment area information, public comments and responses, certain CRA data, and the bank's most recent CRA performance evaluation). The proposal would retain this requirement with certain updates to account for advances in technology and to address other identified issues. Specifically, as discussed in detail below, the proposal would require that a bank maintain its public file on its website or on a website maintained on the bank's behalf.

Internet usage in the U.S. is currently almost universal. Survey data of U.S. adults indicates that about 96 percent say they use the internet.[205] This represents a significant increase since the early 2000s when only about half of U.S. adults engaged in internet usage.[206] As a result, the agencies believe that requiring banks to provide public file information online would pose minimal access barriers to members of the public with an interest in viewing the information.

To implement this change, throughout proposed § __.43, the agencies would substitute the term "place" with "include" as it relates to instructions for banks to keep and maintain certain information in their public file. The agencies' intent with this revision is to clarify a term that might otherwise be ambiguous. Under the proposal, banks would no longer be required to place information or documents in a physical file but instead would be required to include information or documents in a public file available on the bank's website or a website maintained on behalf of the bank. Additional revisions to modernize the implementation of the proposed rule's public file provision are discussed below. Also discussed below are revisions to address issues related to the current public file provision. Other than the changes discussed in this SUPPLEMENTARY INFORMATION, the proposal would carry forward the current rule's public file requirements.

Information available to the public. Current § __.43(a) specifies the information that a bank must include in its public file. The agencies are proposing several modifications to these content requirements, in addition to conforming changes to reflect other parts of the proposal.

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[205] *See* Pew Research Center, "Internet, Broadband Fact Sheet" (Nov. 20, 2025), *https://www.pewresearch.org/internet/fact-sheet/internet-broadband/*.

[206] *See id.*

Current § __.43(a)(1) requires banks to maintain in the public file written comments received from the public that specifically relate to a bank's performance in helping to meet community credit needs, and any bank responses to the comments, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the bank or publication of which would violate specific provisions of law. Proposed § __.43(a)(1) would modify the current rules by replacing "good name or reputation" with "character or integrity." The agencies intend this to be a technical change to reflect more modern terms that accurately reflect the types of statements covered by this language. The terms "character" and "integrity" are used elsewhere in banking laws and regulations regarding directors, senior executive officers, and controlling shareholders of banks.[207]

Also, in proposed § __.43(a)(2), the agencies are clarifying certain requirements regarding the inclusion of the bank's most recent CRA performance evaluation in the bank's public file. First, the agencies are clarifying that the CRA performance evaluation included in the public file is the most recent performance evaluation "provided to the bank." For purposes of proposed § __.43(a)(2), the agencies provide a CRA performance evaluation to a bank when internal supervisory reviews are complete. Second, the agencies are specifying that banks are required to include the CRA performance evaluation provided by the appropriate agency in their public file within 60 business days. In comparison to current requirements, this proposed deadline would extend the current deadline by an additional 30 business days. The agencies are proposing this change to better account for the fact that a bank may appeal the assigned ratings in its CRA performance evaluation for a period after the performance evaluation is provided to the bank. In the agencies' experience, requiring a bank to place its CRA performance evaluation in its public file while the performance evaluation remains subject to appeal creates concerns for

[207] *See* 12 U.S.C. 1831i(e) (requiring the appropriate Federal banking agency to consider the character and integrity of proposed directors and senior executive officers in certain situations); *see also* 12 U.S.C. 1817(j) (requiring the appropriate Federal banking agency to consider the integrity of proposed individuals who will control a bank).

banks and may cause confusion for the public. Extending the period for including CRA performance evaluation in a public file would help mitigate these concerns. Third, the agencies are proposing to reserve discretion to extend the bank deadline for including the CRA performance evaluation in a bank's public file. While the agencies anticipate that there will be limited need to delay the inclusion of a bank's CRA performance evaluation in its public file beyond 60 business days, the agencies' supervisory experience indicates that good cause may exist in certain circumstances. For example, if a bank appeals its CRA assigned rating(s) in its most recent CRA performance evaluation, the agencies may find it preferable to delay the inclusion of the performance evaluation in the public file during the pendency of the appeal.

The agencies are proposing certain other revisions to the content of the public file. Specifically, in § __.43(a)(5), the agencies are proposing two changes. First, with respect to the list of services generally offered at the bank's branches, the agencies are revising the list of services to include only "credit products" as opposed to "loan and deposit products." The agencies are proposing this change because they believe it better comports with the CRA's focus on credit.[208] Second, the agencies propose to add "interactive teller machines" and "internet or mobile banking" to the list of examples of alternative systems for delivering retail banking services and remove banking by computer from the same list. The agencies intend for these changes to update the examples of alternative delivery systems banks may choose to include in their public file to make the list more relevant today.

For large banks, proposed § __.43(b)(1)(ii) would revise the requirement for inclusion of the CRA disclosure statement in a bank's public file. Under the proposal, a bank would no longer include its CRA disclosure statement in its public file. Instead, a bank would be required to include in its public file a written notice that the CRA Disclosure Statement pertaining to the bank may be obtained on the Federal Financial Institutions Examination Council's (FFIEC)

[208] *See* 12 U.S.C. 2903(a).

website at *www.ffiec.gov*. Consistent with the current rule, a bank would be required to include this written notice in its public file within three business days after receiving notification from the FFIEC of the availability of the disclosure statement. This revision is intended to modernize the public file provision.

Location of public file information. Under current § __.43(c), banks are required to make public file information available to the public, upon request, for inspection at the bank's main office and the bank's branches and at no cost. The current rules require the full public file to be made available at the bank's main offices. If the bank is an interstate bank, the bank must also make its full public file available at a minimum of one branch office in each State. At each branch, the public section of the bank's most recent CRA performance evaluation must be made available, along with a list of services provided by the bank branch.

As discussed above, the agencies believe that they should modernize the public file location and availability requirements. To that end, the agencies are proposing a revised version of § __.43(c) that would require banks to make available to the public for inspection, at no cost, the public file information required under the proposed rule, which is located on the bank's website, or a website maintained on behalf of the bank. The proposed changes would also remove the current requirements to maintain the public file at the bank's main office or branches. To comply with the proposed provision, a bank would instead include the public file on a website as described and provide a means for viewing the information in the public file on the website at the bank's branches. For example, a bank could provide access to a computer or other device in a branch that the public can use to view the public file on the website.

The agencies believe that proposed § __.43(c) may provide appreciable regulatory relief for many banks. Rather than creating, maintaining, and updating paper copies of the public file for the main office and bank branches, the banks would likely experience lower compliance costs from maintaining the information online. While the agencies are aware that there may be some banks that do not maintain a website, the agencies do not anticipate that a bank would experience significant compliance costs if it were to create a simple website to maintain its public file information or engage a third party to maintain a website for the bank. The agencies also believe that publishing a bank's public file on a website would increase the ease with which the public is able to access the information.

Copies of the public file. In proposed § __.43(d), the agencies are proposing minor revisions to the requirements for banks to provide copies of their public file to the public. First, upon request, a bank must provide a paper or digital version of the bank's public file to the person making the request. Second, if the copy of the public file information is not provided in a digital form, the bank may charge a reasonable fee not to exceed the cost of copying and mailing the information. The agencies believe that these revisions reasonably balance the availability of the public file information to persons who may not want to use the internet against bank costs associated with providing a non-digital copy of the public file.

Public notice by banks. Current § __.44 provides that a bank must provide the CRA public notice included in Appendix B in the public lobby of the bank's main office and in each of the bank's branches. This public notice furnishes the public in the bank's community with important information regarding the bank, the bank's CRA obligations, and how members of the public can learn more about the bank's past CRA performance and participate in the bank's current CRA performance evaluation.

Consistent with revisions to modernize the provision of the public file discussed above, the agencies are proposing changes to the disclosure of the CRA notice in proposed § __.44 along with conforming revisions to the CRA notice in Appendix B. Under the proposal, a bank would maintain the public notice on the bank's website or a website maintained on behalf of the bank. Given that the public notice would be located on a website, the agencies propose that, in lieu of posting the entire public notice in its main office and branches, the bank must display a written notice, in printed or digital form, that the bank's CRA notice and public file is available on the applicable website. Under the proposal, the disclosure of the CRA notice posted in a bank's main office and branches would not replicate the entirety of the CRA notice described in appendix B. Instead, the public disclosure of the CRA notice would direct bank customers and members of the public to the relevant website containing the notice that meets the requirements of appendix B. The contents of the CRA notice would be revised to reflect the changed location and to conform to the proposed changes to the public file provisions described above.

The agencies believe that these proposed changes would be a net improvement over the current requirements because the proposal would allow banks to update their CRA public notices without the need to create and display an identical copy of the updated notice in the bank's main office or branches. For banks, this would reduce burden by eliminating the need for banks to discard and replace the CRA notices anytime there are changes to the required information (*e.g.*, a change in an address included in the CRA notice). Due to the widespread availability of the internet today, the agencies believe that requiring that banks only post an abbreviated disclosure stating that the CRA notice is available on a website would fulfill the same function as posting the full CRA notice described in Appendix B.

The agencies request comment on whether changing the requirement to post the full CRA notice to a requirement to post a disclosure referencing that the CRA notice is available on the bank's website or a website maintained on the bank's behalf would function as a viable alternative to the current requirements of § __.44. The agencies also request comment as to whether they should develop a model public disclosure of the CRA notice or include a required disclosure in the rule.

I. Other Technical and Targeted Revisions

The agencies are proposing several additional revisions and certain technical and clarifying changes to the current rule. Unless otherwise specified, these changes are not intended to have substantive effect.

Discriminatory or other illegal credit practices, in general. Under the current rules, an agency's evaluation of a bank's CRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any geography by the bank or in any assessment area by any affiliate whose loans have been considered as part of the bank's lending performance. In § __.28(c), the agencies are proposing certain clarifying revisions to the provision regarding the effect of discriminatory or other illegal credit practices.

Scope of discriminatory or other illegal credit practices. In § __.28(c)(1), the agencies propose to add to the non-exhaustive list of discriminatory or other illegal credit practices violations of: (1) section 1031 of the Dodd-Frank Act involving unfair, deceptive, or abusive acts or practices (UDAAP); (2) the Military Lending Act; and (3) the Servicemembers Civil Relief Act. The proposed revisions would codify the agencies' existing policy with respect to the types of discriminatory or other illegal credit practices that may adversely affect the evaluation of a bank's CRA performance.

The agencies are also proposing a new § __.28(c)(2) that would provide additional criteria applicable to the agencies' consideration of discriminatory or other illegal credit practices. The agencies believe that the addition of this provision would appropriately focus the scope of the agencies' consideration of discriminatory or other illegal credit practices on those violations that are most likely to have a broad impact on the bank's lending activities such that the benefit those activities may have had in meeting community credit needs would be adversely affected by the harm the activities caused to the community. The agencies are proposing two alternatives for the proposed provision.

Under the first option for proposed § __.28(c)(2) (Option 1), evidence of discriminatory and other illegal credit practices must be a violation of a law, rule, or regulation cited in a public enforcement action taken by a Federal or State agency or judicial order to which a Federal or State agency is a party. The agencies believe that these requirements would appropriately focus consideration of discriminatory and other illegal credit practices on violations of a law, rule, or regulation for which a Federal or State agency has taken a formal enforcement action or pursued judicial action. The agencies believe this approach would create an objective standard for when the agencies would consider a violation of a law, rule, or regulation and would permit the agencies to fully discuss discriminatory and other illegal credit practices without disclosing violations of a law, rule, or regulation that constitute confidential supervisory information.

The agencies are considering a second option for proposed § __.28(c)(2) (Option 2). Option 2 would generally codify current practice by providing that a discriminatory or other illegal credit practice must be a violation of a law, rule, or regulation cited by a Federal or State agency in an examination report or enforcement action, or in a judicial order to which a Federal or State agency is a party. Option 2 also would provide that if the citation of a violation of law, rule, or regulation is confidential supervisory information, the agencies will not disclose such information in the public section of the bank's CRA Performance Evaluation. The agencies believe that approach would preserve the flexibility to consider a particular discriminatory or other illegal credit practice—even when it is not disclosed to the public. Although the agencies expect, based on their supervisory experience, that nonpublic citations will seldom rise to the level of a downgrade in CRA rating, this option would preserve the agencies' flexibility to resolve matters through nonpublic enforcement actions when appropriate and still consider them in the CRA rating process.

As a result of either proposed option, the agencies are also proposing to eliminate the "nature, extent, and strength of the evidence of the practices" factor considered under the current rules in determining the effect of a discriminatory or other illegal credit practice on a bank's assigned ratings. Under Option 1, the agencies believe that limiting consideration of discriminatory or other illegal credit practices to public agency actions would mean that absent a mitigating factor, the violation has the requisite nature, extent, and strength to warrant lowering a bank's rating. Under Option 2, the agencies believe this factor is encompassed by the consideration of "any other relevant information." The agencies would continue to consider the other factors in current § __.28(c)(2) (proposed § __.28(c)(3)) to determine if a bank's ratings should be lowered.

The agencies request comment on whether there are additional examples of discriminatory or other illegal credit practices that should be identified in proposed § __.28(c)(1) based on the harm the practices cause to consumers and communities. In addition, the agencies request comment on whether the new criteria for considering discriminatory or other illegal credit practices in proposed § __.28(c)(2) should be included, or what alternative criteria, if any, should be considered. The agencies request comment on the elimination of the agencies' consideration of the "nature, extent, and strength of the evidence of the practices" and whether there are instances where a final agency action that is available to the public would still, absent mitigating factors, fail to rise to the level of warranting a downgrade of the bank's performance.

The agencies also request comment on whether the agencies should provide greater clarity in regulatory text regarding how evidence of discriminatory or other illegal credit practices may affect a bank's CRA ratings. For example, should the rules provide that evidence of discriminatory or other illegal credit practices may be considered in the bank's overall CRA rating, or in applicable performance test, assessment area, State, or multistate MSA conclusions or ratings?

Military banks. The current rules provide in § __.41(f) that a bank whose business predominantly consists of serving the needs of military personnel or their dependents may delineate its entire deposit customer base as its assessment area if the military personnel or dependents are not located within a defined geographic area. This provision is largely based on a 1978 amendment to the CRA statute.[209] And the delineation is permitted notwithstanding any other assessment area provision in § __.41. The current rules are otherwise silent with respect to how banks that delineate assessment areas under the military bank provision will be evaluated for purposes of the CRA.

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[209] *See* 12 U.S.C. 2902(4) ("A financial institution whose business predominately consists of serving the needs of military personnel who are not located within a defined geographic area may define its 'entire community' to include its entire deposit customer base without regard to geographic proximity.").

To improve clarity and transparency, the agencies are proposing a new definition of "military bank" in § __.12 which includes banks whose business predominately consists of serving the needs of military personnel who serve or have served in the U.S. armed forces or dependents of U.S. military personnel. The definition also specifies that "U.S. armed forces" includes all six of the current branches of the U.S. armed forces. Moreover, the definition provides a standard that a bank is predominantly in the business of serving the needs of military personnel or their dependents if the bank's most important customer group is military personnel or their dependents. This proposed definition is based on and would incorporate the explanation provided in the 1979 preamble to the CRA rule.[210]

The agencies are also proposing a new § __.21(a)(6) to discuss the applicable performance tests or standards applicable to military banks. In proposed § __.21(a)(6)(i), military banks are subject to the performance tests or standards described in § __.21(a)(1) through (5). For example, if the military bank has the assets of a large bank, the military bank will generally be evaluated under the lending, investment, and service test as described in § __.21(a)(1).

In proposed § __.21(a)(6)(ii), the agencies discuss the treatment of military bank assessment areas. If the military bank chooses to delineate the entire U.S. and is territories as its sole assessment area under proposed § __.41(f), the agencies will evaluate the bank at the institution-level only. This approach would reflect the bank's decision to delineate a single assessment area.

The agencies are also proposing a new § __.21(a)(6)(iii), which would modify the application of the applicable performance tests or standards to address the fact that, as provided in the statute, military banks that serve military personnel and their dependents who are often not located in a defined geographic area. Therefore, proposed § __.21(a)(6)(iii) would provide that military banks are not evaluated under any component of a performance test or standard that

[210] *See* 44 FR 18163, 18164 (Mar. 27, 1979).

evaluates bank performance within a defined geographic area. For example, the geographic distribution of a military bank's loans would not be considered under the lending test applicable to large banks or the geographic distribution criteria applicable to small and intermediate banks under the lending test for small banks and intermediate banks.

In addition, the agencies are also proposing revisions to the assessment area(s) provisions for military banks in § __.41(f). The revised military bank provision would provide that, notwithstanding any other assessment area provision in § __.41, a military bank whose customers are not located within a defined geographic area may delineate the entire United States and United States territories as its sole assessment area. This assessment area would include "the entire deposit customer base" described in the current rules and the CRA statute and rationalize this assessment area with the geographic oriented rule. As discussed above, the proposed rules would also revise the application of the performance tests for military banks to focus on the bank's customer base.

The agencies believe that these proposed changes would improve the understanding of what a military bank is and, in accordance with CRA statute, extend these banks the option to define their entire community to include their entire customer deposit base. The agencies intend these changes to support and aid military banks as they continue their important mission of serving the credit needs of U.S. military servicemembers and their dependents. The agencies seek feedback on provisions in the proposed rules regarding military banks.

Indian country and other Tribal and native lands. Proposed § __.12 defines "Indian country" to mean a geographic area that is covered by 18 U.S.C. 1151 or a Tribal Census Tract, an Oklahoma Tribal Statistical Area, a Tribal Designated Statistical Area, an Alaskan Native Village Statistical Area, or an American Indian Joint-Use Area, as those terms are defined by the U.S. Bureau of the Census. Proposed § __.12 also defines "other Tribal and native lands" to cover State Designated Tribal Statistical Areas, as defined by the U.S. Bureau of the Census, and Hawaiian Home Lands. The agencies are proposing these defined terms to provide banks with certainty as to what areas they may engage in revitalization and stabilization activities under the proposed definition of "community development."

The agencies request comment whether their proposed definitions of "Indian country" and "Other Tribal and native lands" adequately includes the areas occupied by American Indians and other Native American populations.

Request for Feedback:

Question 55: Are there alternative approaches the agencies should consider to encourage banks to meet the credit needs of Indian country and other Tribal and native lands? For example, should the agencies use the definition of Native Lands in the 2023 CRA rules? Are there any difficulties or unintended consequences that banks might encounter with the definitions as proposed?

Performance context. The agencies are proposing changes to the performance context factors in § __.21(b) for clarity and parallel structure. These changes include: (1) clarifications that performance context is used to approve and evaluate a bank's strategic plan; (2) clarifications that demographic data includes assessment area demographics and data on the local, regional, and national economic environment; (3) information on lending, investment, grant, and service opportunities does not need to be limited to the bank's assessment areas; and (4) bank product offerings and business strategy may be considered if the bank provides them.

Authority and purpose. With respect to the current authority and purpose provisions in § __.11, the agencies are proposing the following technical, clarifying revisions. First, the OCC is proposing to revise its Office of Management and Budget (OMB) control number in § 25.11(a)(2) to "OMB control number 1557–0357" to align the control number with the approved information collection in place for the OCC's current rule. Second, in § __.11(b), the agencies are proposing clarifying revisions to more closely conform the rules to the language in the CRA statute. The agencies are specifying that, as provided in 12 U.S.C. 2905, the agencies are required to publish regulations to carry out the purposes of the CRA. Moreover, the agencies are including the purposes of the CRA described in 12 U.S.C. 2901(b). To better align with 12 U.S.C. 2903(a), the agencies are also explaining that they intend to carry out the purposes of the CRA by establishing a framework for assessing the record of banks of meeting the credit needs of its entire community, including LMI neighborhoods, consistent with the safe and sound operation of the bank and taking that record into account when considering certain applications.

Severability. The agencies are proposing § __.11(d) to address the issue of severability by providing that the provisions in their CRA rules are separate and severable from one another. If any provision of the rules is stayed or determined to be invalid, it is the agencies' intention that the remaining provisions will continue in effect. In such an event, the agencies anticipate that they would evaluate whether any subsequent rulemaking is appropriate. The agencies are proposing to include the severability clause to ensure that, in the event any particular provision of the proposed rule is stayed or determined to be invalid, it would be clear to banks and affected members of the public that the remaining provisions of the rule would remain effective. Inclusion of a severability clause would also preserve, despite any litigation, improvements to the CRA regulatory framework that were not the subject of the legal challenge.

Definitions. In the sections above, the agencies discussed several proposed new or revised definitions in connection with the proposed provisions to which the definitions relate. In addition, the agencies are proposing certain clarifying revisions to the definitions in § __.12, discussed below.

- *"Appropriate Federal financial supervisory agency*." The OCC is proposing a new definition of "appropriate Federal financial supervisory agency" in proposed § 25.12. As noted above, this proposed definition would be used throughout part 25 in lieu of "appropriate Federal banking agency." This change would be clarifying only and would use a term defined in the statute.[211] Under the proposal, "appropriate Federal

[211] The OCC's proposed definition would be closely aligned with the same term that is defined in 12 U.S.C. 2902(1).

financial supervisory agency" would mean the: (1) OCC when the institution is a bank or Federal savings association; and (2) FDIC when the institution is a State savings association with federally insured deposits. The OCC is proposing conforming revisions throughout part 25 to implement this change.

- *"Branch."* The agencies are proposing a simplified definition of "branch" in § __.12 to mean a banking facility authorized as a branch. This proposed definition of branch is intended by the agencies to promote better alignment between their existing approach to bank branches for licensing purposes and their CRA rules that include the effect of a bank's CRA performance on branch applications. While the proposed changes would no longer include the examples of branches such as the "mini-branch in a grocery store" or the indicator to include shared spaces, the agencies believe that the proposed definition would fully cover all bank branches recognized under the existing definition. Instead of including modifications to the meaning of branch in the definition, the agencies are proposing to incorporate into the assessment area delineation provisions in proposed § __.41 limits on the types of branches that require a bank to have an assessment area.
- "*Incidental basis.*" To provide a more transparent standard with respect to special purpose banks described in § __.11(c)(3), and the limited purpose bank and wholesale bank definitions included in § __.12, the agencies are proposing to include a new definition of "incidental basis" in § __.12. Under this definition, lending is done on an incidental basis when it is provided infrequently as an (1) incident to a bank's specialized operations, or (2) accommodation to the bank's customers and is provided as a lending product the bank does not advertise or market to the public or its customers. The definition also specifies that, for the substantive provision described above, and for the definition of a wholesale bank or a limited purpose bank, incidental lending constitutes no more than 5 percent of the bank's total lending as of December

31 of both of the prior two calendar years. This proposed definition would largely codify guidance in the Interagency Questions and Answers[212] as well as the agencies' interpretations of related terms applied to these types of banks. To implement this definition, the agencies are proposing conforming revisions to the limited purpose and wholesale bank definitions and the exemption for certain special purpose banks. The agencies seek feedback on the proposed definition of "incidental basis."

- "*Limited purpose bank*." The agencies propose to remove certain language from the definition of "limited purpose bank" in § __.12 so that the definition no longer references a narrow product line (*e.g.*, credit card or motor vehicle loans) that the bank offers "to a regional or broader market." The agencies believe that this proposed revision is appropriate because the inclusion of the term "broader market" does not have a determinate meaning in relation to a "regional market" described in the definition; banks supervised by the agencies have often experienced difficulty in understanding the application of this part of the definition to their specific business models; and the agencies do not extensively rely on the terminology in designating limited purpose banks. The agencies believe that the "incidental basis" definition for the limited purpose bank definition will provide a more transparent standard that will provide banks with better guidance on their eligibility for limited purpose bank designation under § __.25(b).

Terminology changes. The agencies are proposing certain minor technical, non-substantive revisions to: (1) separate the definition of "bank" and "savings association" in part 25 (OCC only); (2) replace the term "geography" with the term "census tract," which is what geography means under the current rules (both agencies); (3) replace the term "shall" with "must" or "will" (both agencies); and (4) change the defined term "qualified investments" to

[212] *See* Q&A § __.12(n)—2.

"community development investments" for consistency with the CD loan and CD service definitions (both agencies). In addition, the agencies are proposing to remove the phrase "but not limited to" when it is used in the context of "including, but not limited to" a particular subject. The agencies believe that the language is unnecessary and potentially confusing given that "including" already indicates that the items or topics referenced are non-exhaustive.

Substantially beyond MSA boundary. The agencies are considering whether they should revise one of the limitations on the delineation of a bank's assessment area under current § __.41(e)(4). Instead of specifying that a bank's assessment area(s) "may not extend *substantially* beyond an MSA boundary," the agencies could revise § __.41(e)(4) to provide that a bank's assessment area(s) "may not extend beyond an MSA boundary." Despite the fact that it would limit flexibility in bank assessment area delineation, the agencies are contemplating this change because they believe that it better conforms to the statutory definition of "metropolitan area" in the CRA statute that does not include extensions beyond the geographic areas identified in statute.[213] The agencies acknowledge that this change, if adopted, would also effectively rescind any previous guidance that allowed banks to delineate assessment areas that do not extend substantially beyond a particular MSA.[214] The agencies seek feedback on whether banks should have continued flexibility in assessment area delineation.

Substantial portion of loans. In § __.41(c)(2) of the current rules, banks that are not wholesale or limited purpose banks are required to include in their assessment area(s) the census tracts in which the bank has originated or purchased a substantial portion of its loans that surround the census tracts in which the bank's main office, branches, and deposit-taking ATMs or remote service facilities, as applicable, are located. The agencies and the banks they supervise have often confronted ambiguity as to when a bank meets the "substantial portion of its loans"

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[213] *See* 12 U.S.C. 2906(e)(2) ("The term 'metropolitan area' means any primary metropolitan statistical area, metropolitan statistical area, or consolidated metropolitan statistical area, as defined by the Director of the Office of Management and Budget, with a population of 250,000 or more, and any other area designated as such by the appropriate Federal financial supervisory agency.").

[214] *See*, *e.g.*, Q&As §§ __.41(e)(4)—1 and __.41(e)(4)—2.

standard, triggering the obligation to include additional census tracts within the bank's assessment area(s).

To improve clarity in the application of the assessment area requirements, the agencies are considering whether it is appropriate to establish a numerical threshold to indicate when the "substantial portion of its loans" standard is met in § __.41(c)(2). A transparent threshold would most likely make it easier for banks to discern when they incur obligations to include areas that are not the census tract in which their main office or home office, as applicable, branches, or deposit-taking ATMs or remote service facilities, as applicable, are located.

As an alternative, the agencies are considering whether they should dispense with the "substantial portion of its loans" standard in current § __.41(c)(2) and replace it with an entirely new concept. For example, the agencies could develop requirements for banks to include all census tracts within a radius of the bank's main office, branches, or deposit-taking ATMs or remote service facilities. The applicable radius around these bank locations could be a fixed distance for all banks, regardless of the bank's location. Or the distance of the radius could vary based on urban density. Similar to the OCC's approach to short-distance relocations for branches or main offices described in 12 CFR 5.3, the radius could be the largest for rural locations outside MSAs, an intermediate size for suburban locations inside MSAs, and the smallest for locations inside the principal cities of an MSA. This type of variance would account for the fact that census tracts generally become more compact as population density increases.

The agencies note that the alternative radius-based concept may prove to be a preferable option for banks and the communities they serve. Instead of confronting ambiguity or performing additional numerical calculations, banks would have a relatively simplistic methodology to discern what communities are within in a particular bank's assessment area(s). And a radius sweeps into a perfect circle with no discretion to include or exclude communities within the set distance, potentially obviating concerns related to arbitrary exclusion of LMI census tracts or the potential for the assessment area to reflect illegal discrimination.

The agencies seek comment on whether they should retain the "substantial portion of its loans" standard in § __.41(c)(2) as is or retain that language but implement a quantitative standard. If the latter, the agencies seek comment on how to develop that standard.

Request for Feedback:

Question 56: Should the agencies base a quantitative standard for the substantial portion of lending on the amount of lending that would generally be considered "satisfactory" for the inside the assessment area ratio under the small bank lending test? Alternatively, should it be based on the agencies' experience for the areas that banks reasonably serve from a fair lending perspective? Is there some other basis the agencies should consider?

Question 57: Should the agencies replace the requirement to include census tracts where the bank does a substantial portion of lending in the bank's assessment area(s) with an alternative such as the radius-based standard discussed above. If so, how should the agencies determine the appropriate radius? Should it vary by type of geographic area (*e.g.*, MSA or nonmetropolitan area)?

Whole county assessment areas for large banks. Under §§ __.41(c) and (e) of the current rules, and subject to certain conditions, banks are permitted to delineate an assessment area that is comprised of a geographic area that is less than a whole political subdivision, provided that the assessment area consists of whole census tracts. Large banks often avail themselves of this flexibility by delineating assessment areas that exclude portions of a political subdivision, such as partial counties or county equivalents.

The agencies are considering whether they should amend their CRA rules so that large banks must use counties or county equivalents as their smallest base geographic unit for their assessment areas. In practice, this change would require a large bank to include every county or county equivalent in which it has a main office, branch, or deposit-taking ATM in an assessment area. Large bank discretion to include or exclude census tracts would be discontinued under this approach.

The agencies are considering whether the benefits of whole county assessment areas such as transparency, improved ability to compare bank performance, and ensuring banks serve communities in broader areas outweigh county size concerns. The agencies believe that large banks generally have the capacity to serve whole counties. While this may remove some flexibility that large banks currently possess in the delineation of their assessment areas, the agencies believe that the benefits described above are likely to outweigh possible large bank concerns associated with the service of an entire county. This is because the agencies would consider performance context in circumstances where a large bank was not serving a portion of an assessment area. For example, if a large bank has a single branch or deposit-taking ATM on the periphery of a geographically expansive or populous county, the limitations should be considered as applicable performance context under § __.21(b) in determining the bank's assigned rating.

The agencies request comment on whether large banks should be required to delineate whole counties or county equivalents in localities in which the bank's main office, branches, and deposit-taking ATMs are located. The agencies also request comment on whether performance context would be an adequate way of accounting for circumstances in which large banks have limited capacity to serve an entire county or county equivalent.

OCC strategic plan transition provision. The OCC's current transition provisions in its current rule include § 25.52. Current § 25.52 provides that a bank with a strategic plan approved by the appropriate Federal banking agency and in effect as of December 31, 2021, remains in effect. Current § 25.52 also notes that, unless amended, parts of a plan that are not consistent with the current rules are void. This provision allowed banks with a plan approved under the 2020 CRA rule to keep the plan to the fullest extent possible.

The OCC is proposing to remove § 25.52 because there are no longer any banks with an approved plan in effect on or before December 31, 2021. This development is to be expected because, like the current rules, the 2020 CRA rule limited plans to a term of five years or less.[215]

References to the 2023 CRA rules. The agencies are proposing additional changes to their other rules to remove references to the 2023 CRA rules.[216] For the OCC, these changes include removing references from its Public Welfare Investment rule in 12 CFR part 24. Both agencies are also proposing to remove references to the 2023 CRA rules from their CRA Sunshine rules found in 12 CFR parts 35 (OCC) and 346 (FDIC).

OCC prohibition against use of interstate branches primarily for deposit production. Without any substantive changes, the OCC is proposing to relocate its current requirements prohibiting the use of interstate branches primarily for deposit production from subpart E of its current rule to a new subpart G in 12 CFR part 5 (§§ 5.100 through 5.104). The OCC believes that the removal of its prohibition required by section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act)[217] from its current rule and placement in the Rules, Policies, and Procedures for Corporate Activities in part 5 will allow the OCC to simplify the overall scope and structure of the current rule. The prohibition against use of interstate branches primarily for deposit production provisions is not part of the CRA and the OCC believes the provisions are more aligned with 12 CFR part 5. The OCC notes that this change does not alter its expectations for the banks it supervises to comply with the Interstate Act and its accompanying rule.

The agencies also made conforming changes through the proposal to implement the revisions discussed above.

V. Request for Comments

[215] 85 FR at 34813.

[216] In early 2024, the agencies amended certain rules to reference appendix G of the 2023 CRA Rule. *See* 89 FR 22060, 22062 (Mar. 29, 2024).

[217] *See* 12 U.S.C. 1835a.

The agencies request feedback on all aspects of the proposed rules. In particular, the agencies request feedback on the questions raised above in this SUPPLEMENTARY INFORMATION. The agencies also request comment on the following:

Question 58: Throughout this SUPPLEMENTARY INFORMATION the agencies referenced the guidance in the Interagency Questions and Answers. Several aspects of this proposal were based on codifications of the existing guidance. The agencies request feedback on how to address the Interagency Questions and Answers going forward.

Question 59: Should the agencies include transition provisions providing for deferred applicability dates for any of the proposed provisions? In particular, should the rules include transition provisions for the proposed: (1) consideration for eligible CD activities provision; (2) strategic plan provisions; (3) new data collection, maintenance, and reporting provisions; or (4) public notice provisions?

Question 60: The agencies request comment on whether they should maintain the location of public information requirements in current 12 CFR __.43(c) or adopt a website requirement as proposed. The agencies also invite comment on whether requiring banks to include their public file requirements on a bank's website would impose costs on banks, result in cost savings for banks, or have a significant impact on public access to banks' public file information. In addition, the agencies invite comment on whether banks should be required to provide for inspection of the public file at all branch locations or only at certain branch locations in a State.

Question 61: Instead of specifying a threshold for the size of a small bank in the rule—which would become out of date if the agencies adjust the threshold based on the year-to-year change in the average of the CPI-W, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million, as proposed—should the agencies include in the rules a threshold for the first year any final rules are in effect and sunset that provision thereafter?

Question 62: Section __.41(a) of the current rules, which address the scope of the assessment area provision, explains that the agencies do not evaluate a bank's delineation of its assessment area(s) as a separate performance criterion, but the agencies will review the delineation for compliance with the requirements of the rule. This provision is intended to convey that a bank's ratings are not affected by whether its assessment area(s) was delineated in compliance with the rules. The provision has, however, caused confusion regarding what happens if a bank delineates an assessment area that is not in compliance with the rule. For instance, can the agencies require the bank to delineate a compliant assessment area, or would the agencies instead evaluate the bank based on the area that would have been compliant without requiring the bank to revise its delineation? The agencies request comment on whether this provision should be clarified, and, if so, how the rules should address non-compliant assessment areas.

Question 63: In 12 CFR part 24, should the OCC replace the cross reference in § 24.3 to "the investment would receive consideration under § 25.23 as a 'qualified investment'" with "meets the definition of community development investment under 12 CFR 25.12" to focus on whether the investment has a primary purpose of community development without also needing to consider whether the investment would receive consideration in a particular bank's CRA examination?

VI. Economic Analysis

A. OCC Expected Effects

1. Introduction and Scope

Estimated costs and benefits

Ideally, a cost-benefit analysis would be able to identify and monetize, with certainty, all costs and benefits of a regulation, which would then allow policymakers to evaluate different regulatory options by comparing dollar amounts of costs and benefits and pursuing those options with the greatest net benefits. Many financial regulations, however, include both cost and benefit components that cannot be expressed in monetary units with adequate certainty. As cost-benefit guidance from the Office of Management and Budget (OMB) points out, simple cost-benefit comparisons can be misleading when the analysis cannot express important benefits and costs in dollar terms, "because the calculation of net benefits in such cases does not provide a full evaluation of all relevant benefits and costs."[218] The OCC follows the OMB's recommendation in those instances, and provides an evaluation of both quantified benefits and costs and non-quantified benefits and costs.

Current regulatory baseline

Because the 2023 CRA Final Rule was never applicable and was not implemented by banks for current CRA evaluations, the baseline for this impact analysis is the current rules. This is the no-action regulatory baseline against which this analysis compares the proposed changes. Under the current rules, the agencies have established different evaluation methods and reporting and recordkeeping requirements for banks of different asset sizes and business strategies. Evaluation methods may contain some or all of three major elements: lending, investments (including grants), and services.

First, the current lending test evaluates a bank's record of helping to meet the credit needs of the bank's assessment area(s) through its lending activities by considering its retail lending (*i.e.*, home mortgage, small business, small farm, and, as applicable, consumer lending) and CD lending. Second, the current investment test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through qualified investments (CD investments and CD grants in the proposal) that benefit those assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s). Third, the current service test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) by analyzing both the availability and effectiveness of the bank's systems for delivering retail banking services and the

[218] OMB Circular A-4 10 (Sept. 17, 2003), *https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf*.

extent, innovativeness, and responsiveness of its CD services that benefit the bank's assessment area(s) or broader statewide or regional area(s) that includes the bank's assessment area(s).

Banks are evaluated along these three CRA performance categories differently, depending on a bank's total asset size or business strategy. For evaluation methods based on asset size, the current rules have three asset size evaluation categories: small bank, intermediate small banks, and large banks. Small banks include any of those with less than $412 million in total assets and are assessed only on a tailored lending test that focuses on retail lending activities. Intermediate small banks include banks with total assets of at least $412 million and less than $1.649 billion in total assets. Agency evaluations of intermediate small bank CRA activities assess a bank's retail lending under the small bank lending test plus a single CD test which considers the number, amount, and responsiveness of CD loans, investments, and services. Large banks include banks with total assets greater than or equal to $1.649 billion and are assessed on all CRA performance categories, with each category assessed separately. Furthermore, large banks are required to collect, maintain, and report annually certain data on CD loans, small business loans, small farm loans, and assessment areas.[219] For evaluation methods based on business strategy, wholesale and limited purpose banks are evaluated using a standalone, specialized CD test, subject to agency designation. A small subset of banks have chosen to be evaluated based on a strategic plan that sets forth performance goals developed by the bank with community input and approved by the appropriate Federal financial supervisory agency.

Table 1 below summarizes current baseline provisions against key changes in the proposal, which include proposed changes to CRA-qualifying activities, which includes modifications to the scope of CRA eligible lending, investments, and services; performance tests and standards; and ratings; geographic scope; data collection, maintenance, and reporting

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[219] Small banks and intermediate small banks are not required to report these data unless they opt into being evaluated under the large bank lending test in § __.22.

requirements; strategic plan requirements; and public file requirements. The proposal also addresses a number of other technical and implementation issues.

Table 1: Differences Between the Baseline and Proposed CRA Frameworks

	Current Framework	Proposed Changes
(1)	**Asset Size Threshold**:[220] Banks evaluated under small-bank procedures generally have assets below $412 million; Intermediate small banks generally have assets of at least $412 million and less than $1.649 billion; and large banks generally have assets of at least $1.649 billion.	Raise the small bank evaluation threshold to $1 billion in total assets. Rename intermediate small banks as intermediate banks, classify them as their own category instead of a subcategory of small bank, and raise the intermediate bank evaluation threshold to $10 billion in total assets.
(2)	**Lending Test**: Banks' retail lending evaluations must evaluate home mortgage, small business, and small farm loans, and as applicable, consumer lending (which may include one or more of the following categories: motor vehicle, credit card, other secured, and other unsecured loans) under the current product-line framework. Large banks are generally evaluated on all three of home mortgage, small business, and small farm lending, regardless of whether primary or non-primary product loans. Small banks and intermediate small banks are evaluated only with respect to those retail lending categories that are considered major product lines unless they opt to be assessed under the large bank lending test.	Adopt a major product line approach for all banks, under which the agencies would generally evaluate retail lending in two major product lines, assessed at the institution level. Major product lines could include home mortgage, small business, small farm, and consumer lending, assessed based on the bank's total retail lending activity by both loan count and dollar volume during the evaluation period. Eliminate evaluation of home mortgage, small business, and small farm loans for large banks if non-major product line. Clarify when consumer lending would be a major product line for all banks. If a large bank's consumer lending is a major product line under the proposal, the bank would be required to collect the data. Clarify the qualitative concept of "complexity" for investments means the extent to which an investment that is the functional equivalent of a loan otherwise requires specialized expertise in order to consummate the transaction.

[220] These values are based on 2026 thresholds. Under the current framework, these thresholds are adjusted annually for inflation.

(3)	**Investment Test**: Qualified investments include lawful investments, deposits, membership shares, and grants that have a primary purpose of community development. CD loans are currently not considered a qualified investment. Rather, they are evaluated under the lending or CD framework.	Replace the current qualified-investment terminology with separate CD investments and CD grants definitions. Include grants and donations only if the grants and donations would be directly used by the recipient for a plan, project, or initiative with a primary purpose of community development. Additionally, for large banks, grants and donations must be provided to a recipient with indirect costs which do not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR Part 200, or a comparable standard.
(4)	**Investment Test**: Complexity of qualified investments is considered in agency evaluations of investment test performance, but it is not explicitly defined.	Clarify the qualitative concept of "complexity" for investments means the extent to which a CD investment or grant is a necessary or otherwise beneficial component of a multi-component financing structure that includes lending.
(5)	**Service Test**: Complexity of qualified services is considered in agency evaluations of service test performance, but it is not explicitly defined.	Clarify the qualitative concept of "complexity" for services means the extent to which a CD service is a necessary or otherwise beneficial component of a multi-component financing structure that includes lending.
(6)	**Service Test**: A bank's retail banking services assessment may include a bank's distribution of, and record of opening and closing, branches; alternative systems for delivering retail banking services; and the range of services provided.	Limit the range of retail banking services considered under the service test to only those related to credit.
(7)	**Geographic Scope of CD Activities**: A bank is currently assessed on adequately meeting the needs within its assessment areas(s). Additionally, and specific to CD activities, a bank may receive consideration for eligible CD activities that benefit a broader statewide or regional area that includes the bank's assessment area(s).	Replace the concept of broader statewide or regional area for CD activities. Instead, permit optional consideration of CD activities that benefit areas outside a bank's assessment area(s) up to the State or multistate MSA, or institution level, as applicable, so long as the bank adequately meets the CD needs inside its assessment area(s).
(8)	**CD Activities**: There is currently no living list of CD activities eligible for CRA credit and the existing confirmation process provided by the OCC on the OCC's CRA webpage is informal and	Clarify the CD activity definition; publish a living, non-exhaustive list of CD activities that do and do not qualify; and codify a CD activity confirmation process.

	discretionary, allowing the OCC to alter or discontinue it at any time.	
(9)	**CD Activities**: Under the current rule, reporting banks generally report annually the aggregate number and aggregate amount of CD loans originated or purchased. Reporting efforts include collecting, aggregating, and submitting required CD loan data to the bank's Federal regulator.	Require new data collection, maintenance, and reporting for CD activities for large banks, including: - Report CD grants by recipient, location, and amount; - Collect and maintain loan, investment, and grant level data: (1) identifier; (2) dollar amount; (3) location; (4) complexity indicator; (5) CD purpose indicator; - Collect and maintain additional information for CD grants: 1) The recipient's written commitment to use the funds to provide specific qualifying activities in the bank's assessment areas; and 2) The recipient's IRS Form 990 (Return for Tax Exempt Organizations) with annual operating and program budgets.
(10)	**Strategic Plan**: Participating banks must develop a strategic plan[221] that outlines measurable goals for lending, investments, and services for the communities they are servicing (typically over a three-to-five-year horizon), provide the public an opportunity to review and comment on the plan, and submit the plan and the bank's responses to public feedback to their Federal regulator for review and approval.	Clarify processes for submitting, amending, and implementing strategic plans; provide flexibility; and modernize processes for public input on the strategic plan.
(11)	**Public File and Public Notice**: All banks must have a physical form in their branch of their public CRA file. Banks may additionally elect to maintain their public file online, but not in lieu of physical form.	Require banks to maintain their public file online on their website or on a website maintained on behalf of the bank, rather than in physical form in branches. Require banks to publish the public notice online and display in the lobby a notice of

[221] Currently, 14 OCC-supervised banks are assessed under a strategic plan approach for their CRA evaluation instead of under lending, investment, and service tests.

	As for the public notice, currently it must display the CRA notice in a bank's lobby.	where to find the CRA notice instead of requiring display of the CRA notice.
(12)	**Other miscellaneous**: Includes issues highlighted under the EGRPRA review process and under the 1995 and 2021 rules.	Remediate known pain points and technical issues: - Add provisions to clarify when an assessment of loans would be considered "meaningful" (*i.e.*, 30 loans) and how to evaluate if there is not a meaningful sample. - Remove a limitation on intermediate bank ratings that a bank may receive an overall "satisfactory" rating without a "satisfactory rating" on the CD test if the applicable lending test standard is met. - Add, for CD loans, that the agencies would consider prior period loans held on balance sheet - Permit CD loans and investments to include a binding commitment to lend or invest. - For discriminatory or other illegal credit practices, specify that the practice must be in the context of a public enforcement action (Option 1) or specific that is the practice involves confidential supervisory information, that information would not be publicly disclosed (Option 2). - Clarify provisions that apply to military banks.

Overview of impacts

The OCC currently supervises 990 institutions (commercial banks, trust companies, FSAs, and branches or agencies of foreign banks, collectively "banks").[222] The CRA framework applies to nearly all OCC-supervised banks, subject to the exclusions in 12 CFR 25.11(c), including exclusions for certain uninsured Federal branches, limited Federal branches, Federal agencies, and certain special purpose banks that do not grant credit to the public in the ordinary

[222] Based on data accessed using the Financial Institution Data Retrieval System (FINDRS) on June 23, 2026.

course of business. Therefore, the OCC believes that its proposed rule would impact approximately 894 of these OCC-supervised institutions.

The OCC expects that the direct impacts associated with this proposed rulemaking would be a reduction in aggregate compliance burden on net, although the direction and magnitude of specific impacts would vary across institutions depending on asset size, business model, current CRA evaluation method, and existing compliance systems. The largest burden reductions are expected for institutions that would move into less burdensome CRA evaluation categories because of the proposed asset-size threshold increases, institutions that would benefit from more targeted major-product-line lending evaluations, banks that would face reduced public-file and public-notice burdens, and banks that could make greater use of clarified strategic-plan procedures or CD activity confirmation processes. At the same time, the proposal would impose incremental compliance costs on some large banks, including cost associated with new or modified CD loan, CD investment, and CD grant data collection, maintenance, and reporting; additional CD grant documentation; and consumer-loan data collection and maintenance where consumer lending is a major product line.

The OCC also expects several potential second order impacts, including a possible shift in CRA-motivated activity toward lending and credit services and away from certain CD activities, in particular grants and deposit services. The proposal also could affect the geographic distribution of CRA-motivated CD activities by permitting optional consideration of certain CD activities outside a bank's assessment area(s), provided the bank adequately meets CD needs inside its assessment area(s). The OCC expects the proposed changes could have downstream effects on LMI communities, small business, small farms, nonprofit organizations, and other community development stakeholders, but the direction and magnitude of those effects are uncertain and likely would vary by local market conditions, bank business strategy, and the availability of qualifying lending, investment, grant, and service opportunities.

The proposal would not change the requirement, which is mandated by statute, that covered institutions help meet the credit needs of their entire communities, including LMI neighborhoods, consistent with safe and sound operations. However, it would change certain evaluation methods, documentation requirements, and reporting obligations, which could affect compliance processes and banks' incentives at the margin. Table 2 below summarizes these compliance and economic impacts associated with the proposed changes in the rulemaking.

Table 2: Compliance and Economic Impacts of the Proposed Changes

	Proposed Change	Compliance Impact	Economic Impact
(1)	**Asset Size Threshold**: Raise small bank evaluation threshold to $1 billion in total assets. Rename intermediate small banks as intermediate banks, classify them as their own category instead of a subcategory of small bank, and raise the intermediate bank evaluation threshold to $10 billion in total assets.	**High Cost Savings:** Decreases reporting burden for intermediate banks that are currently large banks and have data reporting requirements. Decreases burden for small banks that are currently intermediate small banks and undergo CD activity tests.	**Regulatory Complexity, Reporting Requirements, and Bank Growth:** Reduces regulatory complexity, documentation and reporting requirements for affected small and intermediate small banks, but at the cost of decreased available data for evaluation of CRA performance of current large banks that would be reclassified as intermediate banks under the proposal. Decreases systems costs for CRA performance and analysis of affected intermediate banks. Realigns bank evaluation thresholds that are substantially similar to the original 1995 CRA regulation, thus following original judgments reached regarding CRA compliance and bank operational differences. This may encourage bank participation in CRA activities and may decrease likelihood of banks participating in regulatory avoidance. Decreases data availability for certain banks.

(2)	**Lending Test**: Adopt a major product line approach for all banks, under which the agencies would generally evaluate retail lending in two major product lines, assessed at the institution level. Major product lines could include home mortgage, small business, small farm, and consumer lending, assessed based on the bank's total retail lending activity by both loan count and dollar volume during the evaluation period. Eliminate evaluation of home mortgage, small business, and small farm loans for large banks if non-major product line. Clarify when consumer lending would be a major product line for all banks. If a large bank's consumer lending is a major product line under the proposal, the bank would be required to collect the data.	**Low Cost Savings:** Decreases burden for large banks because they no longer have to monitor for compliance or perform self-assessments for non-major products and because this simplifies the CRA calculations underlying the ratings.[223]	**Regulatory Consistency:** Tailors a bank's CRA examination to a bank's retail lending business model. Provides a consistent and objective standard for when the agencies assess specific product lines. Decreases regulatory oversight into how banks are performing within their non-major products. While non-major products do not generally have a meaningful impact on the CRA evaluation, they may be meaningful to the some of the banks' communities.
(3)	**Investments Test**: Replace the current qualified-investment terminology with separate treatment for CD investments and CD grants. Include grants and donations for only if the grants and donations would be directly used by the recipient for a plan, project, or initiative with a primary purpose of community development. Additionally, for large banks, grants and donations must be provided to a recipient with operating costs which do not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR Part 200, or a comparable standard.	**Moderate Costs:** Increases costs for banks that seek CRA consideration for grants and donations, especially large banks. Banks may need to conduct additional due diligence, obtain recipient commitments, review operating-cost information, and maintain supporting documentation. Some grants or donations that currently receive CRA consideration may no longer qualify, which could require banks to	**Recalibrates CRA Investments:** May increase the likelihood that CRA-qualifying grants and donations directly support identifiable CD plans, projects, or initiatives, including activities benefiting LMI individuals, small businesses, small farms, and qualifying communities. May reduce CRA incentives for general operating-support grants, grants to intermediaries, or grants to organizations with higher operating-cost ratios, which could affect nonprofit capacity

[223] Banks may incur one-time implementation costs to update existing data management systems to reflect proposed changes in CRA calculations underlying the ratings. We also expect that large banks may still need to collect data and devote resources annually to determine which lending products are and are not major. However, banks generally know what their major lending products would be in advance of the evaluation period because they already have a longer-term approved business strategy they are adhering to.

		adjust CRA grant programs.	and the distribution of CRA-motivated grant funding.
(4)	**Investments Test**: Clarify the qualitative concept of "complexity" for investments means either 1) the extent to which a CD investment or grant is a necessary or otherwise beneficial component of a multi-component financing structure that includes lending; or 2) the extent to which a CD loan otherwise requires specialized expertise in order to consummate the transaction.	**Low Cost Savings:** May decrease time and resources expended by a bank to determine if an investment is a complex activity because banks would ex ante understand what activities would count.	**Regulatory Consistency and Transparency:** Provides a consistent and objective standard for when the agencies assess specific complex investments. May result in certain CD activities that would be considered complex investments under the current rule that no longer meet the complexity standard under the proposed definition.
(5)	**Services Test**: Clarify the qualitative concept of "complexity" for services means the extent to which a CD service is a necessary or otherwise beneficial component of a multi-component financing structure that includes lending.	**Low Cost Savings:** May decrease time and resources expended by a bank to determine if a service is a complex activity because banks would ex ante understand what activities would count.	**Regulatory Consistency and Transparency:** Provides a consistent and objective standard for when the agencies assess specific complex investments. May result in certain CD activities that would be considered complex services under the current rule that no longer meet the complexity standard under the proposed definition.
(6)	**Services Test**: Limit the range of retail banking services considered under the service test to only those related to credit.	**Low Cost Savings:** Reduces burden because banks no longer have to monitor for compliance or perform self-assessments for the current expanded list of qualifying CRA services and because this simplifies the CRA calculations underlying the ratings.[224]	**Regulatory Complexity and Statutory Alignment:** Decreases regulatory complexity by reducing qualifying CRA services banks must be assessed on under the services test. Shifts the composition of a bank's CRA services to be more credit focused, in alignment with statute.
(7)	**Geographic Scope**: Replace the concept of broader statewide or regional area for CD activities. Instead, permit optional consideration of CD activities that benefit areas outside a	**Moderate Costs:** Increases compliance costs for banks that opt to participate in this provision because affected banks may have	**Regulatory Flexibility and Market Efficiency**: Decreases competition costs for CD activities. Often, banks operate in assessment area(s) where other banks exist, and

[224] Additionally, banks may incur one-time implementation costs to update existing data management systems to reflect proposed changes in CRA calculations underlying the ratings.

	bank's assessment areas(s) up to the State or multistate MSA, or institution level, as applicable, so long as the bank adequately meets the CD needs inside its assessment area(s).	more CRA loans, investments, and services to 1) collect, maintain, and report data for; and 2) analyze and incorporate into the CRA calculations underlying their CRA performance ratings.	where CRA opportunity volume is fixed. As a result, banks compete within a given assessment area for the same opportunities. Encourages banks to increase CD activities outside of existing assessment areas, which may address existing CRA hotspots and CRA deserts.
(8)	**CD Activities**: Clarify the CD activity definition; publish a living, non-exhaustive list of CD activities that do and do not qualify; and codify a CD activity confirmation process.	**Low Cost Savings:** May decrease time and resources expended by banks to determine if a CD activity is a qualifying CRA activity because banks would ex ante understand what activities would count.	**Regulatory Consistency and Transparency:** Provides a consistent and objective standard for when the agencies assess qualifying CD activities. Allows banks to know sooner which CD activities would qualify, which may 1) increase banks' confidence in their CRA performance before the CRA exam, and 2) encourage them to do more innovative or complex activities.
(9)	**CD Activities**: Require new data collection, maintenance, and reporting for CD activities for large banks including: - Report CD grants by recipient, location, and amount; - Collect and maintain loan, investment, and grant level data: (1) identifier; (2) dollar amount; (3) location; (4) complexity indicator; (5) CD purpose indicator; - Collect and maintain additional information for CD grants: 1) The recipient's written commitment to use the funds to	**Moderate Costs:** Increases data collection costs because large banks would be required to collect and maintain data[225] into a standardized form and then submit the report. Creates new data reporting for CD grants by recipient, location, and amount. Creates new data collection and maintenance costs for CD grant information regarding 1) the recipient's written commitment; and 2) the recipient's IRS Form 990.	**Regulatory Clarity and Data Consistency:** Provides clarity and standardizes CD activity data, which may make banks' data collection efforts more consistent, efficient, and complete.

[225] This cost may be mitigated because banks are generally already expected to provide this type of information to examiners at the time of an examination to receive CRA consideration.

	provide specific qualifying activities in the bank's assessment areas; and 2) The recipient's IRS Form 990 (Return for Tax Exempt Organizations) with annual operating and program budgets.		
(10)	**Strategic Plan**: Clarify processes for submitting, amending, and implementing strategic plans; provide flexibility; and modernize processes for public input on the strategic plan.	**Low Cost Savings:** Potentially reduces the need to hire an external CRA compliance consultant or a law firm for banks that use a strategic plan for their CRA performance evaluation.	**Regulatory Flexibility, Consistency, and Transparency:** Provides flexibility because it allows affected banks to submit strategic plans that more accurately reflect their standards. Modernizes the process for public input. May increase strategic plan participation by additional institutions including: 1) charters which have less traditional business strategies, and 2) existing banks that currently are assessed for their CRA performance using traditional tests (*i.e.*, lending, investments and services, depending on their asset size) and instead choose to use a strategic plan approach.
(11)	**Public File and Public Notice**: Require banks to maintain their public file online on their website or on a website maintained on behalf of the bank, rather than in physical form in branches. Require banks to publish the public notice online and display in the lobby a notice of where to	**Low Cost Savings:** <u>Public file process</u>: Low cost savings long term because banks would no longer need to provide a physical copy of their CRA public file in bank branches. This is a small impact because banks generally already have their CRA public file	**Transparency, Public Access, and Participation:** <u>Public File and Notice Processes:</u> Reduces information costs for members of the public, community organizations, local governments, and researchers because this provision

	find the CRA notice instead of requiring display of the CRA notice.	available on their website. Public notice process: Moderate one-time implementation costs for banks to direct their CRA public notice to the bank's website. Long term savings because future changes to the CRA notice would only need to be done online and not in every bank branch.	provides easier access to CRA public files.[226]
(12)	**Other Miscellaneous**: Remediate known pain points and technical issues: - Add provisions to clarify when an assessment of loans would be considered "meaningful" (*i.e.*, 30 loans) and how to evaluate if there is not a meaningful sample. - Remove a limitation on intermediate bank ratings that a bank may receive an overall "satisfactory" rating without a "satisfactory rating" on the CD test, if the applicable lending test standard is met. - Add, for CD loans, that the agencies would consider prior period loans held on balance sheet. - Permit CD loans and investments to include a binding commitment to lend or invest. - Clarify that only public citations of violations of law by federal agencies	**Moderate Cost Savings:** Modifying Rating Limitation: Improved CRA performance ratings may lessen regulatory oversight costs. CD Loan Treatment: May reduce costs associated with more frequent loan issuances, which is the current practice, because banks would more likely focus resources on CD loans with longer-term maturities.	**Expansion Activities and Regulatory Consistency:** Modifying Rating Limitation: May improve overall CRA performance ratings, which could have downstream effects on bank expansion activities. CD Loan Treatment: Creates regulatory consistency between the treatment of CD loans and the current treatment of CD investments. Provides an incentive for banks to extend the length and type of financing needed for a CD project.

[226] Easier access to CRA public files may make it easier to compare CRA performance across institutions, review public comments, examine branch and service information, and participate in CRA examinations or applications involving CRA considerations.

	could result in a downgrade for discriminatory or other illegal credit practices. - Clarify provisions that apply to military banks.		

Compliance cost savings and costs

The proposed rulemaking implements a number of changes to the existing CRA framework. Many of those changes could result in ongoing cost savings while several may result in increased ongoing compliance costs. Additionally, many of the proposed changes would result in one-time transition costs associated with implementation of the changes. As already stated, the specific impacts would vary across institutions depending on asset size, business model, current CRA evaluation method, and existing compliance systems. The OCC highlights below the most impactful direct compliance cost savings and costs on OCC institutions.

Direct cost savings

Data collection, maintenance, and reporting requirements

The proposal reduces certain data collection, maintenance, and reporting requirements through several channels. Principally, through the changes to CRA size thresholds, which would address asset growth from inflation and industry consolidation since the 1995 regulation. By amending the large bank threshold, 126 OCC-supervised large banks would be reclassified as intermediate banks and thus no longer required to comply with existing and proposed large bank data reporting requirements. This would be a significant compliance cost savings for affected banks.[227] Amending the size thresholds includes an amendment to the small bank threshold. This

[227] Some banks may not recognize reporting savings in practice, as non-large banks are permitted to opt into large bank tests, standards, evaluations, and requirements (including data and reporting requirements). However, the OCC expects in practice this would likely only be a handful of banks. Current anecdotal evidence suggests upwards of a dozen non-large banks opt to be evaluated by large bank tests. Expecting only a small number of banks would opt into a more burdensome regulatory framework is consistent with comments provided by the financial industry in prior CRA rulemakings.

would result in 194 intermediate banks being reclassified as small banks and thus no longer assessed on CD activities, unless they otherwise choose to be assessed for their CD activities.[228]

Simplified evaluation calculations

Under Option 1 for major product lines, the proposed changes to the large bank lending test would decrease burden for large banks because they no longer have to monitor for compliance or perform self-assessments for non-major products and because this simplifies the CRA calculations underlying the ratings. Large banks may still need to collect data and devote resources annually to determine which lending products are and are not major. However, a bank generally knows what its major lending products would be in advance of the evaluation period because it already has a longer-term approved business strategy within which it is operating.

Under Option 2 for major product lines, the proposed changes to the large bank lending test would result in significantly less cost savings in comparison to Option 1. This is because, under Option 2, the "major" determination for a given product line would depend on several factors[229] that may vary with each assessment area and evaluation period. As a result, it is expected that banks would need to maintain similar data collection and maintenance efforts as well as similar complexity for CRA calculations underlying the ratings relative to the baseline framework. However, Option 2 may reduce burden if fewer product lines are ultimately evaluated in some assessment areas, but it would not provide the same bright-line simplification, predictability, or cost savings as Option 1, particularly for large banks with multiple assessment areas or materially different product mixes across markets.

Proposed changes to the service test would decrease burden for all banks subject to a service test. The provision would limit the range of retail banking services considered under the service test to only those related to credit. As a result, banks would no longer have to monitor for

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[228] In prior CRA rulemakings, regulated depository institutions that are intermediate small banks have indicated that they spend approximately 200 hours on CRA compliance activities per year.

[229] These factors include an institution's overall lending volume and business strategy, capacity to lend in a given assessment area, and the extent to which lending in the product line meaningfully contributes to the institution's record of meeting the credit needs of a given assessment area.

compliance or perform self-assessments for the current expanded list of qualifying CRA services, which would result in simplified CRA calculations underlying the ratings for affected banks.

Reduced over- and under-compliance for certain CRA activities

The proposal provides clarity on qualifying complex investments and services by expressly defining these terms and providing examples. The proposal also provides clarity on qualifying CD activities by updating the CD activity definition, publishing a living, non-exhaustive list of CD activities that do and do not qualify, and codifying a CD activity confirmation process. These collective changes may help reduce search and interpretation efforts of banks seeking to engage in these activities. It may also help reduce the likelihood of banks unintentionally under- or over-complying with any corresponding data collection, maintenance, and reporting requirements they might otherwise currently be engaging in due to a lack of understanding or concern that such activities may not qualify as CRA eligible activities.

Allowance for prior period CD loans

Under the proposal, the time period over which banks would be evaluated for their CD loans held on balance would be expanded to include new originations and issuances within the current evaluation period (as is done under the current framework) plus originations and issuances held prior to the evaluation period. This provision would increase what qualifies for CRA credit and would encourage patient capital. That is, banks would likely focus resources on CD loans with longer-term maturities than under the current framework and may save on origination costs associated with more frequent loan issuances due to more efficient structuring of transactions.[230]

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[230] Extending the time horizon for which banks can be assessed along their CD activity may not only affect the duration of the CD loans offered by banks but also the underlying risk profile of those loans, as banks may be less incentivized to modify loan issuance, volume, or quality around CRA exam time frames if provided this additional flexibility. Some economic studies suggest that banks are incentivized to excel on their CRA evaluations around the time period of their regulatory exams, with banks increasing loans for about six quarters surrounding CRA exams. *See* Sumit Agarwal et al., "Did the Community Reinvestment Act (CRA) Lead to Risky Lending?" National Bureau of Economic Research Working Paper 18609 (Dec. 2012),

Strategic plan process improvements

The proposal may also yield compliance cost savings due to the changes to the strategic plan process for submitting, amending, and implementing strategic plans. Currently, approximately 14 OCC-supervised institutions use a strategic plan approach for their CRA performance evaluation, though that number is expected to grow due to increased chartering activities of institutions with non-traditional business models and due to the increased usability of a strategic plan approach under the proposal. The proposed changes are expected to provide more clarity around requirements and make the strategic plan approach to CRA evaluations more usable, especially for banks whose business models are not well captured by standard CRA tests. These changes would potentially reduce the need to hire an external CRA compliance consultant or law firm for banks that use a strategic plan for their CRA performance evaluation.

2. Direct costs

Transition costs

The proposed changes to the CRA framework may create one-time or front-loaded administrative transition costs. OCC-supervised institutions may need to update policies, procedures, internal guidance, training materials, and legal references. These costs may be proportionally larger for smaller institutions that have fewer in-house legal, compliance, or information technology staff.[231] On the other hand, larger institutions may face more complex implementation efforts because the revised framework may need to be incorporated across multiple business lines, products, customers, and services, vendor-management programs, and data management systems.

https://www.nber.org/system/files/working_papers/w18609/w18609.pdf. However, the same studies also empirically show that those same loans are more risky and have an increased default risk of approximately 15 percent by the following year. *See id.*

[231] In prior CRA rulemakings, financial industry commenters have highlighted these types of resource constraints of community banks when facing CRA compliance requirements. Some insured depository institutions have described significant compliance costs from the initial transition.

Data collection, maintenance, and reporting requirements[232]

Under the proposal, several provisions would increase data collection, maintenance, and reporting requirements. The first is the change to CD investments, namely grants and donations. The second pertains to optional participation by banks to assess CRA qualifying activities outside of their established assessment area(s), up to the State or multistate MSA, or institution level, as applicable. The third change pertains to changes in CD activity reporting requirements. The last are the changes to the calculations underlying the CRA ratings for the large bank lending test and the service test.

The proposed changes to qualifying grants and donations under the investment test would require banks to conduct additional due diligence, obtain recipient commitments, review operating-cost information, and maintain supporting documentation. The proposed changes to allow banks to consider certain CD activities outside their assessment area(s) is optional, not required, and would likely only be incurred if the benefits of doing so[233] outweigh the costs. For the proposed changes to CD activity reporting requirements, banks are already generally required to collect and maintain data on CRA qualifying CD activities. However, the proposal's new requirement regarding standardized form submission for annual submissions would require banks to update data systems. Additionally, the rule requires banks to collect new data on each CD grant regarding both a recipient's written commitment for the use of funds and their IRS Form 990, which would impose new data collection and maintenance costs for these CD activities. In addition to these changes, banks may also incur one-time costs to update existing data management systems to reflect proposed changes in CRA calculations underlying the ratings for the large bank lending test and the service test.

[232] Under the proposal, the Federal banking regulators would permit data exemptions where data are not necessary to evaluate CRA performance. This may reduce potential data- and reporting-related compliance costs for a subset of banks.

[233] As explained in further detail, this proposed provision may encourage more efficient allocation of CRA-motivated CD activity, provide banks with more regulatory flexibility, and allow for CRA-motivated capital to be better matched with community development opportunities across wider geographical territories than the traditional assessment area allows for.

Regardless of the reason for the system change, any updates to data systems would require banks to first identify what activities would and would not be qualifying CRA activities under the proposal, create model assumptions, validate those assumptions, and then incorporate those changes into the bank's data systems. Banks would either handle the systems changes themselves (likely the largest banks) or pay vendors for this service (likely small banks). Regardless of whether done internally or externally via vendor, systems would have to go through multiple stages, with each stage requiring separation of duties and independent verification before proceeding to the next stage. These stages include a proposal phase that proposes design change, followed by design, a project plan, development, validation testing, and controlled escalation to production.

Public notice costs

The proposal modifies current requirements regarding how banks must provide public notice, redirecting banks from having a physical display of their CRA notice in a bank's lobby to instead be on a bank's website. Historically, banks have provided feedback to Federal banking agencies that implementing changes to the CRA notice display can be costly, as much as several million dollars per bank. Therefore, the OCC expects there to be a one-time cost incurred by banks to ensure compliance with this provision but at the tradeoff of incurring lesser costs with future public notice changes due to the expectation that updating a bank's website would be less resource intensive.

Direct cost savings and costs conclusion

Overall, the OCC expects that the direct impacts associated with this proposed rulemaking would be a reduction in aggregate compliance burden, on net. Furthermore, the OCC expected the largest burden reductions from this proposal would be for institutions that would move into less burdensome CRA evaluation categories, which would result in decreased data collection, maintenance, and reporting requirements for up to 126 OCC banks and decreased compliance burden for CD activities for up to 194 OCC banks.

3. Broader economic benefits and burdens

In addition to direct compliance cost savings and costs, the proposed rule may generate broader economic effects through changes in banks' CRA compliance incentives, the information available to banks, supervisors, community organizations, and the public, and the geographic and product-level allocation of CRA-motivated activities. These effects are distinct from the direct burden estimates. They are also difficult to quantify or monetize because they depend on bank-specific business strategies, local credit needs, the availability of qualifying CRA opportunities, community partner capacity, and supervisory implementation.

The analysis below discusses these broader effects qualitatively. Secondary benefits may arise from reduced compliance frictions, better regulatory tailoring, improved certainty, greater public transparency, and more flexible allocation of CRA-motivated activities. Secondary burdens, discussed in the next subsection, may arise from reduced data availability for some reclassified banks, changes in incentives for certain grants, investments, services, or geographic areas, and potential distributional effects on LMI communities or community development stakeholders.

Secondary economic benefits

The proposal may generate secondary economic benefits through several channels. The analysis here considers whether reduced burden, greater certainty, or improved flexibility may lead banks, community partners, supervisors, or the public to allocate resources more efficiently.

Table 3: Summary of Secondary Economic Benefits

Benefit Channel	Related Proposed Provisions	Potential Secondary Economic Effect
Resource reallocation from lower compliance frictions	Asset-size threshold increases; major-product-line approach; public-file modernization; data-waiver authority	Affected banks may redirect staff time, systems resources, and management attention toward lending, borrower outreach, CRA planning, or community development relationships.
Greater certainty and lower search costs	Clarified CD definitions; illustrative living list; CD	Banks and community partners may be able to identify

	activity confirmation process; clarified complexity standard	qualifying activities earlier, structure transactions more efficiently, and reduce uncertainty about CRA treatment.
More efficient geographic allocation of CD activity	Optional consideration of certain outside-assessment-area CD loans, CD investments, and CD services after the bank adequately meets CD needs inside its assessment area(s)	CRA-motivated activity may be better matched to areas with unmet CD needs, including rural areas, underserved areas, Tribal areas, disaster-affected areas, or areas with fewer nearby bank assessment areas.
Improved targeting and accountability of CD grants	Revised CD grant definition; large bank CD grant documentation; CD purpose indicators	CRA-motivated grant funding may be more closely tied to identifiable CD plans, projects, or initiatives.
Improved transparency and public participation	Standardized large bank CD loan, CD investment, and CD grant data; CD grant recipient reporting; online public files	Agencies, community organizations, researchers, local governments, and the public may have better information about the amount, location, and purpose of large bank CD activity.
More effective CRA planning tools	Strategic-plan process reforms; prefiling communications; technical-completeness notices; plan amendment procedures; modernized public input	Banks with non-traditional or specialized business models may be better able to align CRA performance goals with business strategy and community credit needs.
More predictable supervisory standards	Meaningful assessment standard; treatment of prior-period CD loans held on balance sheet; legally binding commitments to lend or invest; military bank clarification	CRA evaluations may become more consistent and predictable, reducing uncertainty for banks and improving interpretability for community stakeholders.

Resource reallocation from lower compliance frictions

The proposal may generate secondary benefits if affected banks use compliance resources more productively after moving into more tailored evaluation categories or after facing more targeted evaluation standards. For example, banks that would move from large bank to intermediate bank evaluation and standards, or from intermediate bank to small bank evaluation and standards, due to the proposed changes in bank thresholds, may face fewer compliance, data, and examination-preparation demands. Affected banks may be able to redirect management attention, compliance staff time, and systems resources toward activities more directly related to meeting community credit needs, such as loan production, borrower outreach, credit-product development, or community development relationships.[234]

Greater certainty and lower search costs

The proposal may reduce uncertainty about whether particular loans, investments, grants, or services qualify for CRA consideration. Clarified CD definitions, a public living list, and a codified confirmation process may reduce the time banks and community partners spend determining eligibility before committing resources to a project. This may be especially valuable for projects with multiple parties or financing sources, where uncertainty about CRA treatment can delay commitments or increase transaction costs.

More efficient geographic allocation of CD activity

The proposal may improve the allocation of CRA-motivated CD activity by permitting consideration of certain CD loans, CD investments, and CD services outside a bank's assessment area(s), provided the bank adequately meets CD needs inside its assessment area(s). This flexibility may allow banks to support qualifying projects in areas with unmet needs but fewer banks with local assessment area(s). The secondary benefit is not merely that banks have more

[234] This is consistent with findings that when the two-tiered asset-based evaluation was introduced in the 1995 reform, some banks responded by clustering just below the framework's $250 million total asset threshold over the period from 1996 to 2004, effectively slowing their growth and engaging in regulatory avoidance, though this same clustering effect was not observed prior to the 1995 CRA regulation. *See* Jacelly Cespedes *et al*., "Strategically Staying Small: The Consequences of Regulatory Avoidance," (Dec. 2025), *https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3874987*. The authors further argue that banks engaging in CRA regulatory avoidance by managing total assets just below the regulatory threshold resulted in unintended negative consequences LMI borrowers, with those banks experiencing a 1.8 percentage point increase in rejection rates for LMI-qualifying loans while banks not engaging in regulatory avoidance saw an increase in LMI originations during the same time period; the authors also saw no evidence of a change in loan demand during the same time period. *See id.*

flexibility, but that CRA-motivated capital may be better matched with community development opportunities across geographies.[235]

Improved targeting and accountability of grants and donations

The proposed CD grant definition may increase the likelihood that CRA-qualifying grant funds are directed to identifiable CD plans, projects, or initiatives. This could improve the effectiveness of CRA-motivated grant funding by strengthening the link between CRA consideration and specific community development uses.

Improved transparency and public information

The proposal's large bank CD data provisions may generate secondary information benefits for supervisors, community organizations, researchers, local governments, and the public. Standardized data on CD loans, CD investments, and CD grants may make it easier to identify where large bank CD activity occurs, what types of CD purposes are being served, and where activity may be limited. These informational benefits are separate from the direct compliance costs large banks may incur to collect, maintain, and report the data.

Improved public access and participation

Online public file requirements and revised public notices may reduce information costs for members of the public, community organizations, local governments, and researchers. Easier access to CRA public files may make it easier to compare CRA performance across institutions, review public comments, examine branch and service information, and participate in CRA examinations or applications involving CRA considerations.

More effective CRA planning tools

Strategic plan reforms may create secondary benefits by making the strategic plan option

[235] Research finds that customers in LMI communities generally have higher minimum account balance fees, maintenance fees, and nonsufficient funds charges, than customers in non-LMI areas, and that the main drivers are opportunities for lending income, bank operating costs, and bank size (which also corresponds to overall CRA regulatory compliance burden). *See* Marco Migueis *et al*., "Cost of Banking for LMI and Minority Communities," Finance and Economic Discussion Series (Feb. 2025), *https://www.federalreserve.gov/econres/feds/files/2022040r1pap.pdf*. By increasing the geographic area that banks may be assessed for CRA performance, it increases the opportunity for banks to generate additional lending income from otherwise underserved areas, which may ultimately translate into lower costs for those LMI customers.

more usable for banks whose business models are not well captured by standard CRA tests. Clearer plan content requirements, prefiling communications, technical-completeness notices, review timelines, amendment procedures, and modernized public input may improve the quality of strategic plan effectiveness. CRA evaluations may better reflect institution-specific business models, delivery channels, product offerings, and community credit needs.

More predictable supervisory standards

The proposal may generate secondary benefits by making CRA evaluation standards more predictable. Clarifying when a loan sample is meaningful may reduce the likelihood that examination conclusions are driven by very small or non-representative loan counts. Considering prior-period CD loans held on balance sheet and legally binding commitments to lend or invest may better recognize longer-term CD financing and may support financing structures that align with the time horizons of affordable housing, infrastructure, small business, and other community development projects.

Secondary economic burdens

The proposal may also generate secondary economic burdens or adverse distributional effects. These effects are distinct from the direct compliance costs. For example, the direct cost of collecting new CD activity data is a compliance cost; the secondary burden is the possibility that higher documentation requirements could change which CD activities banks choose to pursue or which community partners are able to participate.

The potential secondary burdens discussed below are qualitative. Their magnitude would depend on bank behavior, local credit needs, the availability of qualifying CRA opportunities, community partner capacity, public use of CRA information, and supervisory implementation.

Table 4: Summary of Secondary Economic Burdens

Burden Channel	Related Proposed Provisions	Potential Secondary Economic Burden
Reduced standardized data and comparability	Asset-size threshold increases; intermediate banks excluded from large bank data	Public users, community organizations, researchers, and supervisors may have less standardized CRA data for

	requirements; data-waiver authority	banks that would no longer be evaluated as large banks.
Reduced CRA incentives for non-major product lines	Major-product-line approach; meaningful assessment standard	Some lending products may receive less CRA evaluation emphasis if they are not major product lines, even if they are important in particular local markets.
Reduced support for some nonprofit and intermediary activities	Direct-use requirement for CD grants and donations; 15 percent operating-cost condition for large bank grants; grant documentation requirements	Some general operating support, capacity-building grants, intermediary grants, or grants to smaller nonprofits may receive less CRA-motivated funding.
Potential geographic reallocation away from assessment areas	Optional consideration of certain outside-assessment-area CD activities after the bank adequately meets CD needs inside its assessment areas	Marginal CRA-motivated CD activity may shift away from some local assessment areas toward other qualifying areas or larger-scale opportunities.
Greater heterogeneity in evaluation approaches	Strategic plan reforms; data-waiver authority; technical revisions	More tailored evaluations may reduce comparability across banks and could increase the analytical burden for community stakeholders reviewing CRA performance.

Reduced standardized data and comparability

The proposed asset-size threshold increases may reduce the amount of standardized CRA data available for some banks.[236] This reduction in standardized data may lower compliance burden for affected banks, but it may also reduce information available to community organizations, researchers, local governments, and other public users seeking to compare CRA performance across banks or geographies.

Reduced CRA incentives for non-major product lines

As discussed above, the proposed major-product-line approach may reduce direct costs of

[236] As discussed above, banks that move from large bank to intermediate bank evaluation under the proposal generally would no longer be subject to the large bank data collection, maintenance, and reporting requirements. Additionally, banks that move from intermediate bank to small bank evaluation under the proposal would no longer be evaluated under the intermediate bank CD test.

evaluation burden by focusing CRA retail-lending analysis on the product lines most representative of a bank's business model. However, this approach could also reduce CRA-related incentives for lending products that are not major product lines. For example, a product line that is not material at the institution level could still be important to certain LMI borrowers, small businesses, small farms, or local markets. If such lending receives less evaluation emphasis, banks may have less CRA incentive to maintain, expand, or document those activities. This burden may be mitigated because non-major product lines generally represent a smaller share of a bank's lending, but the effect could vary across communities and product types. The proposal would generally evaluate retail lending in major product lines and includes a meaningful assessment standard for lending analyses.

Reduced support for some nonprofit and intermediary activities

The proposed treatment of CD grants and donations may improve targeting, but it could also create secondary burdens for nonprofit organizations and community development intermediaries. Grants and donations would need to be directly used by the recipient for a CD plan, project, or initiative, and large bank grants would be subject to an operating-cost condition. Large banks also would need to maintain additional information for CD grants, including recipient written commitments and IRS Form 990 information with annual operating and program budgets. These requirements may reduce CRA incentives for general operating support, capacity-building grants, or grants to intermediaries that support multiple downstream projects. Smaller nonprofits, newer organizations, or organizations serving hard-to-reach populations may face greater difficulty providing the documentation or operating-cost information needed to support CRA consideration.

Potential geographic reallocation away from assessment areas

The proposal would allow consideration of certain outside assessment area CD loans, investments, and services if the bank adequately meets CD needs inside its assessment area(s). Optional consideration of certain CD activities outside a bank's assessment area(s) may allow

CRA-motivated activity to reach areas with unmet needs. However, this flexibility could also shift marginal CD activity away from some local assessment area(s) once a bank satisfies the proposed standard for adequately meeting CD needs inside those assessment areas. This could create distributional effects if banks redirect incremental CD loans, investments, or services toward larger, easier-to-document, or more scalable opportunities outside their local assessment area(s). The proposal's inside-assessment area condition and performance context considerations would mitigate this risk, but the local effects would depend on how banks use the flexibility and how community development opportunities vary across markets.

Greater heterogeneity in evaluation approaches

Strategic plan reforms may make the strategic plan option more usable and better tailored to bank business models. However, greater use of strategic plans could also reduce comparability across banks if performance goals, plan scope, and evaluation methods vary substantially by institution. Community organizations and other public stakeholders may need to spend more time reviewing bank-specific goals, plan assumptions, performance context, and public comments. Similarly, data-waiver authority may reduce unnecessary data burden for individual banks, but frequent or inconsistent use of waivers could reduce comparability of CRA data across banks and over time. The proposal would revise strategic plan procedures and would permit data exemptions where data are not necessary to evaluate CRA performance.

Secondary economic impacts conclusion

Overall, the proposal's secondary economic benefits are expected to arise primarily from improved regulatory tailoring, reduced uncertainty, more flexible geographic allocation of CD activity, improved targeting of CD grants, better information, and more predictable CRA planning and supervision. Secondary economic burdens would arise primarily from reduced standardized data and comparability, reduced CRA incentives for non-major product lines, reduced support for some nonprofit and intermediary activities, potential geographic reallocation away from assessment areas, and greater heterogeneity in evaluation approaches. These collective impacts are not readily monetizable with available data because they depend on bank behavior, local market conditions, community partner capacity, and supervisory implementation. However, they may collectively improve the efficiency of CRA-motivated activity by helping banks, examiners, community organizations, and the public identify qualifying activities more clearly and better match CRA-related resources to community credit needs.

4. Costs and benefits conclusion

In conclusion, the OCC expects that the proposed rule would be a net compliance cost savings on affected OCC-supervised institutions, that these savings would likely be economically significant, and that there would also be broader economic impacts. The OCC expects the magnitude and direction of the impacts associated with proposed changes would vary by asset size, business model, current CRA evaluation method, and existing compliance systems. The OCC also expects that borrowers, community development organizations, and communities served by affected banks could experience indirect effects if the proposal changes the mix, documentation, timing, or geographic distribution of CRA-qualifying activities.

B. FDIC Expected Effects

1. Introduction

This section evaluates the projected economic effect of the proposal relative to a baseline in which the proposal is not adopted. Specifically, the section discusses the expected material costs and benefits of the proposal for the 2,689 banks supervised by the FDIC and subject to 12 CFR 345.[237] As previously discussed, a March 29, 2024, court order enjoined the Federal banking agencies from implementing the revisions made by the 2023 CRA rules. Thus, banks are currently being evaluated for compliance with CRA in accordance with the 1995 CRA regulations and were discussed above in the SUPPLEMENTARY INFORMATION as the

[237] Call Report data as of March 31, 2026. As of March 31, 2026, the FDIC supervises 2,700 banks, including six insured U.S. branches of foreign banks. Excluding 11 special purpose banks, the proposal would affect 2,689 FDIC-supervised banks. The effects of the proposal's technical amendments are likely to be *de minimis* for the 11 FDIC-supervised special purpose banks.

"current rules." As such, this analysis assumes that the current rules would remain in place under the baseline. If finalized, the proposed rule would amend the FDIC's current rules to make several substantive, technical, and process-oriented changes. Therefore, relative to the baseline, banks would only have to make a few changes to their current CRA policies and procedures in response to the proposal. To the extent any banks were devoting resources to updating their current CRA policies and procedures to prepare for the 2023 CRA rules, the proposal would allow them to employ those resources elsewhere.

As previously discussed, the proposal would amend the FDIC's current rules, including amendments related to asset-size thresholds, performance tests, community development activities and considerations thereof, strategic plans, data collection, reporting and disclosure, and public file and public notice requirements.[238]

Overall, the proposal aims to increase regulatory certainty and transparency while reducing compliance and regulatory burden, especially for banks with assets less than $10 billion. The FDIC expects the overall effect on consumers and businesses to be beneficial but modest, with most of the benefits accruing to LMI individuals, households, and/or communities, small businesses, and small farms. These effects are discussed below.

2. Scope

As in the current rules, the proposal would use an institution's total assets as of December 31 of the prior two most recent calendar years or business strategy to place institutions within CRA performance evaluation categories.[239] Institutions designated as limited purpose banks, wholesale banks, or that operated under an approved strategic plan under the current rules would

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[238] The proposal also includes certain other technical amendments to revise, clarify, or otherwise remove obsolete provisions. The FDIC anticipates these amendments would have little to no effect for banks. As such, the effects on banks due to these amendments under the proposal are likely to be *de minimis*.

[239] *See* generally 12 CFR __.21 through __.27. The agencies annually adjust the CRA asset size thresholds based on the annual percentage change in a measure of the Consumer Price Index.

continue to be evaluated separately from the institutions evaluated based on their asset size.[240]

Under the proposal, the total asset threshold for small banks[241] would increase from less than $412 million in assets[242] to less than $1 billion in assets. The minimum asset size for intermediate banks[243]—identified as intermediate small banks in the FDIC's current CRA regulations—would increase from $412 million in assets to $1 billion in assets, and the maximum size would increase from $1.649 billion in assets to $10 billion in assets. Finally, the asset threshold for large banks would increase from $1.649 billion or more to greater than $10 billion. Unlike under the baseline, the asset threshold for large banks would not be adjusted annually for inflation under the proposal.

As of March 31, 2026, the FDIC supervises 2,689 institutions that are subject to the CRA. Table 5 summarizes the distribution of institutions across CRA evaluation frameworks under the baseline and the proposal. Following the proposal's increases to the applicable thresholds, the estimated number of FDIC-supervised small banks would increase by 604 to 2,173, intermediate (small) banks would decrease by 354 to 425, and large banks would decrease by 250 to 31. For FDIC-supervised banks with approved strategic plans, under the proposal, the estimated number of large strategic plan banks would decrease by 10 to 7. However, as discussed below, the proposed amendments to the strategic plan provisions could result in an increase in the number of FDIC-supervised banks that elect to be evaluated under strategic plans.

3. Alternative Eligibility Thresholds

In addition to the proposed threshold, the FDIC is considering an alternative small bank

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[240] The FDIC includes a list of banks designated as wholesale or limited purpose banks, and banks with approved strategic plans on its website. *See https://www.fdic.gov/banker-resource-center/cra-limited-purpose-strategic-plan-and-wholesale-institutions* (accessed July 16, 2026).

[241] Under the baseline, unless specified, small banks typically include small banks and intermediate small banks. In this analysis, small banks refer only to banks with less than $412 million (under the baseline) or less than $1 billion (under the proposal).

[242] The baseline thresholds used for this analysis are for calendar year 2026 and are adjusted each year. *See* 91 FR 509.

[243] In the proposal, the term "intermediate bank" replaces the term "intermediate small bank."

asset-size threshold that would directly align the threshold with the size standard the SBA uses to identify small banks. For commercial banks, the SBA's current small bank size standard is $850 million.[244] The FDIC is also considering an alternative asset-size threshold to distinguish between large banks and intermediate banks in which intermediate banks have assets of less than $3.252 billion as of December 31 of either of the prior two calendar years and do not meet the criteria to be small banks.

Although $850 million and $3.252 billion were each introduced as stand-alone alternatives to the current thresholds, rather than as paired values intended to operate jointly, the analysis evaluates their combined effect using the $850 million/$3.252 billion pairing. This approach provides a single, internally consistent alternative classification framework and avoids the need to evaluate multiple combinations.[245] Using Call Report data as of March 31, 2026, the FDIC estimates that the increases in the applicable asset thresholds would result in the following changes in institutional classifications relative to the current framework.

As shown in Table 5, under the combined alternative thresholds discussed above, the estimated number of FDIC-supervised small banks would increase by 518 to 2,087, intermediate banks would decrease by 374 to 405, and large banks would decrease by 144 to 137, relative to the baseline. Compared with the proposed thresholds, the alternative would result in 2,087 FDIC-supervised institutions being classified as small banks (compared with 2,173 under the proposal), 405 intermediate banks (compared with 425), and 137 large banks (compared with 31). For FDIC-supervised banks with approved strategic plans, under the alternative, the estimated number of large strategic plan banks would decrease by 3 to 14 (compared with 7 under the proposal). However, as discussed below, the proposed amendments to the strategic plan

[244] The agencies are aware of a proposed rule by the SBA to raise its size standard for banks to $940 million. *See* 90 FR 41168. For purposes of this analysis, the agencies assume the SBA size standard would remain at $850 million under the alternative discussed.

[245] For example, the proposed rule does not expressly discuss threshold combinations such as $850 million for small banks and $1.649 billion for intermediate banks, or $412 million for small banks and $3.252 billion for intermediate banks.

provisions could result in an increase in the overall number of banks that elect to be evaluated under the strategic plan option. Accordingly, the alternative would produce a more moderate shift toward institutions being evaluated under the small bank performance framework while retaining more institutions in the intermediate bank and large bank categories.

Table 5. FDIC-supervised Banks by CRA Performance Assessment Framework

CRA Performance Assessment Framework	Baseline		Proposal[d] ($1 billion / $10 billion)		Alternative[e] ($850 million / $3.252 billion)	
Banks without Strategic Plans and/or Not Designated Wholesale or Limited Purpose						
Small Bank [a]	1,569		2,173		2,087	
Intermediate Small (ISB) / Intermediate Bank (IB) [b]	779		425		405	
Large Bank	281		31		137	
Banks with Strategic Plans and/or Designated Wholesale or Limited Purpose						
	Small or ISB	Large	Small or IB	Large	Small or IB	Large
Strategic Plan[c]	27	17	37	7	30	14
Strategic Plan (Limited Purpose)	1	0	1	0	1	0
Wholesale (no Strategic Plan)	2	11	9	4	3	10
Limited Purpose (no Strategic Plan)	1	1	2	0	1	1
Total	2,689		2,689		2,689	

Source: Call Report data as of March 2026, December 2025, and December 2024.

Notes:

a. In this analysis, small banks refer only to banks with less than $412 million (under the baseline) or less than $1 billion (under the proposal).

b. In the proposal, the term “intermediate bank” replaces the term “intermediate small bank.”

c. Under the proposal’s improvements to the provisions related to strategic plans, the FDIC expects more banks to elect the option to have their CRA performance assessed under a strategic plan.

d. Under the proposal, the total asset threshold for small banks would increase from less than $412 million in assets to less than $1 billion in assets. The minimum asset size for intermediate banks—identified as intermediate small banks in the FDIC’ current CRA regulations—would increase from $412 million in assets to $1 billion in assets, and the

maximum size would increase from $1.649 billion in assets to $10 billion in assets. Finally, the asset threshold for large banks would increase from $1.649 billion or more to greater than $10 billion. Unlike under the baseline, the asset threshold for intermediate and large banks would not be adjusted annually for inflation under the proposal.
e. As discussed previously, under the alternative, the total asset threshold for small banks would increase from less than $412 million in assets to less than $850 million in assets. The minimum asset size for intermediate banks would increase from $412 million in assets to $850 million in assets, and the maximum size would increase from $1.649 billion in assets to $3.252 billion in assets. Finally, the asset threshold for large banks would increase from $1.649 billion or more to greater than $3.252 billion.

4. Effects due to Changes to Asset Size Thresholds under the Proposal

The proposal is expected to increase the number of small banks, and decrease the number of intermediate banks and large banks. As a result, the proposal is expected to generally reduce compliance costs for 854 FDIC-supervised banks (662 under the alternative):

- 604 FDIC-supervised banks (518 under the alternative) that would be categorized as small under the proposal rather than intermediate small under the baseline and would no longer be subject to a separate CD test and,
- 250 FDIC-supervised banks (144 under the alternative) categorized as intermediate under the proposal rather than large under the baseline and would no longer be subject to separate investment and services tests but would become subject to the proposal's lending test for small and intermediate banks.

The proposal's raised asset thresholds are expected to reduce compliance burden for institutions that are reclassified into performance test categories with fewer evaluation criteria, data reporting, and recordkeeping requirements. Reclassified institutions may also benefit from examination standards that are more proportionate to their size and business model. At the same time, institutions moving into different performance test categories would become subject to different CRA evaluation standards, which may impact banks' CRA program strategies. These institution-specific effects are discussed in the following sections.

The following sections also provide a qualitative assessment of how institutions in the small, intermediate, and large bank categories may be affected under the proposed thresholds.

Because both the proposal and the alternative increase the asset thresholds and yield the same directional effects, the detailed discussion focuses only on the proposed thresholds. The overall conclusions would apply to the institutions reclassified under the alternative asset thresholds as well.

5. Performance Tests

The proposal includes several revisions to the CRA performance tests intended to improve consistency across examinations, reduce unnecessary compliance burden, and better align performance evaluations with the FDIC's supervisory objectives by establishing more objective criteria in certain areas of CRA performance. These revisions affect different categories of institutions depending on the applicable performance test, but generally they are expected to increase regulatory certainty. The discussion below evaluates the expected economic effects of each proposed revision.

Retail Lending

Under the current CRA framework, there are two lending tests—the small bank lending test and the lending test—and there are important differences between the two. The proposal would establish a more standardized evaluation approach by identifying major product lines across the applicable lending tests, with two options for identifying major product lines included in the proposal.[246]

The proposed revisions are expected to reduce variations in examiner judgment and provide greater certainty regarding which retail lending activities will receive CRA consideration. By establishing more objective criteria for selecting which product lines would be evaluated during an examination, banks would have greater certainty before an examination starts regarding which products will be evaluated. This may be particularly beneficial for smaller institutions that do not collect and/or report data, as greater certainty regarding the retail lending

[246] *See* Section IV of this SUPPLEMENTARY INFORMATION for a discussion of the two alternative methods.

products subject to review may reduce the compliance burden associated with preparing for examinations and responding to examiner requests.

The proposal may also influence banks' CRA planning by concentrating evaluation on a narrower set of retail lending products. To the extent that lending activities outside the designated major product lines receive less CRA consideration under the proposal relative to the baseline, some banks may re-allocate resources away from these activities. However, because the proposal primarily standardizes existing examination practices rather than substantially changing lending performance standards, these behavioral effects are expected to be modest.

Meaningful Assessment Approach

The proposal would also introduce a meaningful assessment approach to address situations in which retail lending data are insufficient to support the standard evaluation methodology. Because this proposed revision would primarily affect examination methodology rather than substantive performance expectations, it is not expected to materially alter banks' lending behavior or compliance obligations, relative to the baseline. Instead, the proposal is expected to improve examination consistency and provide greater certainty regarding how banks with limited lending activity in certain assessment areas would be evaluated.

Retail Banking Services

Under the current framework, retail banking services are evaluated as part of the service test, including the range of services provided in low-, moderate-, middle- and upper-income geographies and the extent to which those services are tailored to community needs. The proposal would clarify that the FDIC would evaluate only the range of credit services provided in those geographies. Specifically, the proposal would supersede the language in the existing Interagency Questions and Answers to the extent they provide that the FDIC's evaluation of a bank's retail banking services includes deposit products. Removal of deposit products from consideration under the service test would align the FDIC's CRA regulations more closely with the statute, thus reducing ambiguity regarding examination standards and improving consistency across examinations.

At the same time, narrowing the scope of qualifying retail banking services may reduce CRA recognition for certain activities that previously received consideration, particularly deposit-related services. To the extent that institutions adjust their CRA strategies in response, some may shift resources toward qualifying credit services. Institutions may also devote fewer resources to developing or documenting retail banking activities that would no longer receive CRA consideration. The magnitude of such behavioral response is uncertain and would likely depend on the importance of CRA considerations relative to other business objectives.

Performance Context

The proposal would add a new performance context factor directing the FDIC to consider a bank's CD activities and retail banking services to the extent they are not otherwise considered under another performance test. The proposal would also clarify existing references to other lending-related activities.

These revisions are expected primarily to improve regulatory certainty by clarifying how performance context factors are incorporated into CRA evaluations. Greater transparency regarding the FDIC's evaluation framework may reduce uncertainty surrounding examination outcomes and facilitate more effective CRA planning. Because the proposal would largely clarify existing supervisory practice, it is not expected to materially change banks' burden or their behavior.

Intermediate Small Bank Ratings

Under the current CRA framework, an intermediate small bank generally must receive at least a "satisfactory" rating on both the small bank lending test and the CD test to obtain an overall rating of "satisfactory." The proposal would remove this limitation by allowing stronger performance on the lending test to offset weaker performance on the CD test when assigning an overall rating. As a result, under the proposal, an intermediate bank could receive an overall rating of "satisfactory" even if it does not receive at least a "Satisfactory" rating on the CD test.

The proposal is expected to provide greater flexibility in evaluating intermediate banks' community development activities, for instance, by enhancing consideration for community activities benefitting areas outside an intermediate bank's assessment area(s) and by clarifying the types of activities that qualify for consideration as community development activities, as discussed below. For banks with comparatively stronger performance, the proposal may improve CD test performance outcomes. This flexibility may allow institutions to allocate CRA resources in a manner that better reflects their business models and local market conditions.

At the same time, the proposed rating framework may influence intermediate banks' CRA program strategies. To the extent that intermediate banks have limited CRA resources, some institutions may reallocate effort toward lending activities and away from CD activities that are evaluated under the CD test. Whether such behavioral responses occur, and their magnitude, would depend on institutions' business strategies, and local community needs.

Overall, the proposal reflects the FDIC's broader objective of refocusing CRA performance evaluation on lending while continuing to recognize CD performance as a component of the overall evaluation. By allowing stronger lending performance to compensate for weaker performance on the CD test, the proposal may increase the relative incentive to devote CRA resources to lending activities. The extent to which institutions adjust their resources allocation, however, is uncertain and will likely depend on institution-specific circumstances and local community needs.

6. Community Development

CD Definition

The proposal would clarify the CD definition in the current regulations, codify qualifying activities in the Interagency Questions and Answers, and expand activities in certain circumstances. To the extent that there was stakeholder confusion regarding whether a particular activity qualified as community development, the proposal would benefit such entities by avoiding costs associated with protracted deliberations, unnecessary documentation, incorrect compliance accounting, or foregone investment or services opportunities. In turn, the proposal would benefit certain communities, projects and activities in such circumstances, by reducing costs associated with protracted deliberations, documentation, overhead, as well as foregone community development benefits.

The proposal would clarify the activities considered to be community development. For example, the proposal would eliminate the purpose test component of the Interagency Questions and Answers. The proposal would also reclassify workforce development and job training from economic development to civic assistance. The proposal would include activities that revitalize or stabilize Indian country or other tribal and native lands as a new targeted geographic area. The FDIC also is proposing to include areas targeted by a government entity for redevelopment that qualify for significant economic incentives, such as tax credits, tax abatements, or grants as a new targeted area in the revitalization and stabilization category of community development. The proposed definition would encompass activities that assist individuals and communities in targeted geographies to prepare for, adapt to, or withstand natural disasters, such as earthquakes, severe storms, droughts, flooding, and forest fires. Such changes may have a distributional effect on CD activities. To the extent that the addition of these types of activities would lead to compositional changes in the range of activities undertaken by banks, it may pose some costs and benefits for certain communities and projects. However, as discussed, activities the proposal include within the CD definition promote the welfare of the community, including LMI individuals and communities, and therefore have a similar focus and import to activities that qualify under the current rule.

CD Activities

The proposal would adopt new definitions for CD activities, CD investments, and CD grants and revise the definitions of CD loan and CD service to improve consistency and clarity in how the CD activities are treated across tests. In particular, the proposal would expand the scope of CD loans to include prior period CD loans, change the scope of items considered to be a CD investment, and restrict CRA consideration for grants and donations. Although these proposed revisions largely clarify the current rule and capture the same sets of CD activities, they may result in some compositional changes in the activities that banks engage in for the purposes of compliance with the CRA. Such changes may pose some costs and benefits for certain communities; however, the FDIC does not have the information necessary to quantify such effects.

Further, the proposal would narrow the circumstances in which a bank may receive CRA consideration for grants or donations to ensure that a grant or donation will be directly used by the recipient for a program, project, or initiative with a primary purpose of community development that benefits the bank's assessment areas. Accordingly, the proposal would require a bank to demonstrate that a grant or donation would directly be used for a program, project, or initiative with a primary purpose of community development. Additionally, a large bank would be required to maintain the grant recipient's written commitment to use the funds for specific programs, projects, or initiatives in the bank's assessment area; the recipient's written attestation that the recipient's indirect costs for administering the grant or donation will not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR Part 200, or a comparable standard; and documentation from the recipient supporting the written attestation, including IRS Form 990. While this aspect of the proposal may pose costs for some large banks, the FDIC expects that banks generally already incur such costs in the ordinary course of business.

Finally, the proposal adopts a definition of "complexity" that may change the scope and composition of activities a bank engages in for the purpose of complying with CRA. The proposed definition focuses on lending generally, relative to the current regulations and guidance, and more explicitly clarifies the nature of a complex financing transaction. Such changes may pose some costs and benefits for certain communities and projects however the FDIC does not have the information necessary to quantify such effects.

Consideration of CD Activities

Under the proposal, the FDIC would maintain and periodically update a non-exhaustive illustrative list of examples of CD activities. The proposal would also establish a confirmation process through which a bank may request the FDIC's review to determine if a novel loan, investment, grant, or service may be eligible as a CD activity. The FDIC expects such a list and confirmation process would pose benefits to banks and the public by avoiding costs associated with protracted deliberations, unnecessary documentation, and foregone investment or services opportunities. The voluntary confirmation process would pose some reporting costs for banks that request such a determination. As noted in Section VII.D of this SUPPLEMENTARY INFORMATION, such costs are expected to be *de minimis*. In addition, as the illustrative list grows over time, the number of such requests would likely diminish.

The proposal would also amend the methods of consideration for CD activities in certain circumstances. As previously discussed, the proposal would include standards for allocating CD activities across assessment areas and consideration of CD activities that benefit areas outside of a bank's assessment area. Although these amendments largely clarify the current rule and are intended to capture CD activities provided as examples in CRA guidance, they may result in some distributional changes in the activities that banks engage in for the purposes of compliance with the CRA. Such changes may pose some costs and benefits for certain communities and projects; however, the FDIC does not have the information necessary to quantify such effects. Further, these elements should benefit banks by enabling them to avoid costs associated with uncertainty in the FDIC's consideration of CD activities and generally benefit a bank's entire community by further focusing the bank's attention on its credit needs.

Finally, the FDIC is proposing the adoption of a geographic flexibility standard to determine whether a bank would receive consideration for CD activities that benefit areas outside the assessment areas. The FDIC outlines two alternative approaches in the proposal for determining whether a bank adequately serves the community development needs of an assessment area.

Option 1 includes one set of quantitative standards for large banks and one for intermediate, wholesale or limited purpose banks. Under this option, the FDIC may determine based on performance context that a bank that does not meet the geographic flexibility standards has sufficiently met the CD needs of its assessment area(s).

Under Option 2 the FDIC would evaluate whether a bank has an adequate level of CD activities in an assessment area over the evaluation period, considering the dollar amount and responsiveness of CD activities to the community development needs of a bank's assessment area(s).

Under either option, if a bank meets or exceeds the applicable geographic flexibility standard, the FDIC would consider CD activities outside the assessment areas. Such a standard would benefit banks by enabling them to more efficiently comply with the CRA and have certainty regarding the level of CD activity necessary in each assessment area in order to receive consideration for CD activities outside assessment areas. To the extent that such a standard leads to compositional changes in the activities banks engage in for the purposes of compliance with the CRA, it may pose some costs and benefits for certain communities and projects. However, the FDIC does not have the information necessary to quantify any such effects.

7. Other Provisions

Strategic plans

Banks that elect to be evaluated under a CRA strategic plan have flexibility in designing their plans. Currently, these banks must include measurable goals for helping to meet the credit needs in each assessment area, particularly the needs of LMI census tracts and LMI individuals, but they have flexibility in setting these goals. The current framework states that a bank's plan must address all three performance categories (lending, investment, and services), but it also provides flexibility for a bank to choose a different emphasis as long as the plan is responsive to the characteristics and credit needs of its assessment area(s), and takes into consideration public comment as well as the bank's capacity and constraints, product offerings, and business strategy.

The proposal would provide regulatory relief for strategic plan banks while maintaining evaluation criteria similar to the current framework. Specifically, the proposal would: (1) reduce process-related burden for banks through increased clarity; (2) provide additional information regarding the required content of strategic plans; (3) modernize the process for soliciting public comments; and (4) delineate processes for the submission and evaluation of strategic plans, including the methods by which a bank may resubmit a plan in the event of a denial or amend a previously approved strategic plan.

As noted above, the FDIC evaluates CRA performance under approved strategic plans for 45 FDIC-supervised institutions (or approximately 1.7 percent of 2,689 institutions) (strategic plan banks). As of March 2026, FDIC-supervised strategic plan banks report average assets of approximately $5.6 billion, ranging between $66 million and $47 billion. The FDIC does not expect that, if adopted, the proposal would have a significant impact on CRA compliance requirements for FDIC-supervised strategic plan banks. These institutions face broadly similar examination criteria as they do under the current framework. The FDIC does not have data to forecast the number or types of banks that would choose to be evaluated under a strategic plan as a result of the proposal. However, the amendments in the proposal aim to make strategic plans a viable choice for all banks. Thus, the FDIC expects more banks would elect to be evaluated under a strategic plan.[247]

Recordkeeping, Reporting and Disclosure Burdens

In Section VII.D of this SUPPLEMENTARY INFORMATION, the FDIC estimates the recordkeeping, reporting and disclosure burdens under the Paperwork Reduction Act (PRA) for

[247] In Section VII.D of this SUPPLEMENTARY INFORMATION, the FDIC estimates that 20 banks under the proposal (eight more than the baseline) would elect to comply with information collection provisions related to the submission of strategic plans annually.

all banks under the proposal.[248] The PRA requirements vary in their application to banks—some requirements are mandatory for large banks (including those with strategic plans or those designated as wholesale or limited purpose banks) and optional for small and intermediate banks. Other mandatory requirements apply to all banks or a certain subset, while some PRA requirements only apply for banks that elect certain CRA evaluations (*e.g.*, strategic plans, electing to be evaluated for specific loan product lines). For purposes of this section, we will refer to all such PRA requirements collectively as PRA burdens.

To estimate the number of affected FDIC-supervised entities (including any banks that elect and assume voluntary PRA burdens) and the overall burden under the proposal, the FDIC uses CRA data submitted by banks in 2024, the latest period for which data are available.[249] Relative to the baseline, the FDIC estimates an overall decrease in annual PRA burden, in aggregate, of 106,171 hours per year (55.3 percent reduction), or $10 million per year.[250] The decrease in annual burden of 106,171 hours can be attributed primarily to a decrease in annual burden of 50,998 hours under the proposal's revisions to certain existing data maintenance, collection, and reporting requirements, and an increase in annual burden of 31,766 hours for new

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[248] The recordkeeping, reporting and disclosure requirements are primarily described under proposed § _.25(b), § _.27, § _.42(a) – (g), and § _.43. The FDIC is approved to collect information related to CRA regulations under OMB control number 3064-0092.

[249] As discussed previously, the FDIC also uses Call Report and other public data to place institutions within CRA performance evaluation categories. *See* FFIEC, Community Reinvestment Act 2024 Aggregate & Disclosure Flat Files ("2024 CRA Data"), *https://www.ffiec.gov/data/cra/flat-files* (accessed July 23, 2026); Call Report data as of March 31, 2026, December 31, 2025, and December 31, 2024.

[250] The FDIC estimates total annual burden hours of 191,953 hours under the baseline, and 85,782 hours under the proposal. Multiplying the change in the burden of 106,171 hours with the estimated wage rate of $93.97 yields approximately $10 million per year. As of March 31, 2026, the FDIC supervises 2,689 banks that are subject to CRA, which excludes 11 special purpose banks. *See* proposed 12 CFR __.11(c)(3).

To estimate the average cost of compensation per hour, the FDIC uses the 75th percentile hourly wages reported by the Bureau of Labor Statistics (BLS) National Industry-Specific Occupational Employment and Wage Estimates (OEWS) for compliance officer and clerical occupations in the Depository Credit Intermediation sector. However, the latest OEWS wage data are as of May 2025 and do not include non-wage compensation. To adjust these wages, the FDIC multiplies the OEWS hourly wages by approximately 1.58 to account for non-wage compensation, using the BLS Employer Cost of Employee Compensation (ECEC) data as of March 2025 (the latest published release prior to the OEWS wage data). The FDIC then multiplies the resulting compensation rates by approximately 1.04 to account for the change in the seasonally adjusted Employment Cost Index for the Credit Intermediation and Related Activities sector (NAICS Code 522) between March 2025 and March 2026.

PRA requirements under the proposal.[251] In this section, the FDIC discusses the distributional effects of the changes in the overall burdens under the proposal for FDIC-supervised small, intermediate, large, wholesale and/or limited purpose, and strategic plan banks.[252]

Under the proposal, FDIC-supervised small banks would not experience additional burdens associated with the proposal's revisions to the mandatory PRA requirements for all banks. Using data on small and intermediate small banks that voluntarily reported 2024 CRA data, the FDIC estimates that FDIC-supervised small banks under the proposal[253] would elect to incur, in aggregate, an additional 14,892 hours per year (81 percent increase[254]) in voluntary PRA burdens, or approximately $1.4 million per year.

Similarly, FDIC-supervised intermediate banks under the proposal would also not experience any additional burdens associated with the proposal's revisions to the mandatory PRA requirements for all banks. For all FDIC-supervised intermediate banks under the proposal, including banks that are reclassified from large to intermediate, the FDIC estimates a decrease in estimated annual burden hours, in aggregate, of 114,775 hours per year (86 percent reduction[255]), or $10.8 million per year. Using a combination of data on large banks that are reclassified to intermediate banks under the proposal, intermediate small banks that voluntarily reported 2024 CRA data and the FDIC's estimates to account for burden for any intermediate banks that

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[251] The FDIC attributes an additional decrease in annual burden of 86,939 hours to the FDIC's revisions/updates to the underlying methodology or burden estimates based on supervisory experience. These changes are not related to the proposal.

[252] Where possible, the FDIC allocates the change in overall burden by the various bank types using the banks' classification or designation information for the entities that reported public data or the estimated number of entities by bank type. For one optional provision to report other loan data that is not apportioned by bank size or type, as well as one optional provision related to requests to waive data requirements, the FDIC's revisions to the underlying methodology and burden estimates would increase the associated burden by 955 hours, relative to 25 hours under the baseline, or approximately $90,000 per year.

[253] Where applicable, the FDIC estimates voluntary PRA burdens under the assumption that all the intermediate small banks that reported voluntarily under the baseline and are reclassified as small banks under the proposal would also report voluntarily under the proposal.

[254] 14,892 hours / 18,380 hours estimated under the baseline for small banks = Approximately 81 percent.

[255] -114,775 hours / 133,528 hours estimated under the baseline for large banks = Approximately 86 percent.

assume voluntary PRA burdens,[256] the FDIC estimates that FDIC-supervised intermediate banks under the proposal would see a decrease of 2,260 hours per year in voluntary PRA burden (8 percent decrease[257]), or approximately $212,000 million per year.

FDIC-supervised large banks under the proposal would experience a modest decrease in burden of 3,940 hours per year (3 percent decrease[258]), or approximately $370,000 per year.

FDIC-supervised banks designated as wholesale or limited purpose would experience a modest decrease in burden of 231 hours per year (13.5 percent decrease[259]), or approximately $21,700 per year under the proposal.[260] FDIC-supervised strategic plan banks would experience a modest overall decrease in burden of 812 hours per year (8.1 percent increase[261]), or approximately $76,000 per year.[262]

8. Effects on Consumers

The FDIC does not have the information necessary to quantify, accurately, the effects of the proposal on consumers and businesses, including depositors and/or borrowers. However, the FDIC notes that the proposal's provisions are intended to better achieve statutory objectives. Specifically, the FDIC believes that the proposal, if adopted, would improve banks' success at meeting the credit needs of the communities in which they operate.

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[256] Where applicable, the FDIC estimates voluntary PRA burdens under the proposal for intermediate banks by assuming that ten percent of large banks that are reclassified as intermediate banks under the proposal would continue to report (on a voluntary basis) under the proposal.

[257] -2,260 hours / 28,311 hours estimated under the baseline for intermediate small banks = Approximately 8 percent.

[258] -3,940 hours / 133,528 hours estimated under the baseline for large banks = Approximately 3 percent.

[259] -231 hours / 1,716 hours estimated under the baseline for wholesale or limited purpose banks = Approximately 13.5 percent.

[260] While the burden hours would increase by 873 hours per year for additional requirements related to community development under the proposal for large banks with such designations and 24 hours per year for other voluntary burdens, large wholesale or limited purpose banks would also experience a decrease in burden of 1,128 hours per year associated with the proposal's revisions to other mandatory reporting and recordkeeping requirements.

[261] -306 hours / 9,993 hours estimated under the baseline for wholesale or limited purpose banks = Approximately 3.1 percent.

[262] While the burden hours would increase by 2,037 hours per year for mandatory requirements related to community development under the proposal for large banks with approved strategic plans and 748 hours per year for other voluntary burdens, large strategic plan banks would also experience a decrease in burden of 3,597 hours per year associated with the proposal's revisions to other mandatory reporting and recordkeeping requirements.

The proposal could change both the quantity and type of products and services offered by banks and utilized by consumers. The proposal would make the tests within the CRA more specific and quantitative, which may cause banks to reevaluate and change their compliance activities, such as lending, investment, or the provision of services. Further, the proposal expands the set of qualifying activities, in certain cases, which may also cause banks to re-evaluate and change their compliance activities. The FDIC does not have the information necessary to quantify the magnitude of these effects. The FDIC expects the overall effect on consumers and businesses to be positive but modest, with most of the benefits accruing to LMI individuals, households, and/or communities, small businesses, and small farms.

VII. Regulatory Analysis

A. Regulatory Flexibility Act

OCC

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), requires an agency to consider the impact of its proposed rules on small entities. In connection with a proposed rule, the RFA generally requires an agency to prepare an Initial Regulatory Flexibility Analysis (IRFA) describing the impact of the rule on small entities, unless the head of the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities and publishes such certification along with a statement providing the factual basis for such certification in the *Federal Register*. An IRFA must contain: (1) a description of the reasons why action by the agency is being considered; (2) a succinct statement of the objectives of, and legal basis for, the proposed rule; (3) a description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply; (4) a description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirements and the type of professional skills necessary for preparation of the report or record; (5) an identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap with, or conflict with the proposed rule; and (6) a description of any significant alternatives to the proposed rule that accomplish its stated objectives.

The OCC currently supervises 990 institutions (commercial banks, trust companies, Federal savings associations, and branches or agencies of foreign banks),[263] of which approximately 602 are small entities under the RFA.[264]

In general, the OCC classifies the economic impact on an individual small entity as significant if the total estimated impact in one year is greater than 5 percent of the small entity's total annual salaries and benefits or greater than 2.5 percent of the small entity's total non-interest expense. Furthermore, the OCC considers 5 percent or more of OCC-supervised small entities to be a substantial number. Thus, at present, 30 OCC-supervised small entities would constitute a substantial number.

Though all small OCC-supervised institutions would be subject to the proposal, the OCC concludes that the rule would be a potential net cost savings to small OCC-supervised banks and, as a result, would not impose a net cost. Therefore, the OCC certifies that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, an initial Regulatory Flexibility Analysis is not required.

FDIC

The RFA generally requires an agency, in connection with a proposed rule, to prepare and make available for public comment an initial regulatory flexibility analysis that describes the impact of the proposed rule on small entities.[265] However, an initial regulatory flexibility analysis

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[263] Based on data accessed using the OCC's Financial Institution Data Retrieval System (FINDRS) on June 23, 2026.

[264] The OCC bases its estimate of the number of small entities on the Small Business Administration's size thresholds for commercial banks and savings institutions, and trust companies, which are $850 million and $47 million, respectively. Consistent with the General Principles of Affiliation, 13 CFR 121.103(a), the OCC counted the assets of affiliated financial institutions when determining if it should classify an OCC-supervised institution as a small entity. The OCC used December 31, 2025, to determine size because a "financial institution's assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." *See* footnote 8 of the U.S. Small Business Administration's *Table of Size Standards*.

[265] 5 U.S.C. 601 *et seq*.

is not required if the agency certifies that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The Small Business Administration (SBA) has defined "small entities" to include banking organizations with total assets of less than or equal to $850 million.[266] The proposed rule seeks to establish a definition of "small" insured depository institution as one with average assets of less than $1 billion in either of the prior two calendar years. The agencies, including the FDIC, are in the process of seeking approval from the SBA to use the proposed $1 billion threshold, adjusted annually for inflation, rather than the SBA's size standards. While the FDIC undergoes that approval process it will employ the SBA's existing $850 million size standard in its RFA compliance activities.

Generally, the FDIC considers a significant effect to be a quantified effect in excess of 5 percent of total annual salaries and benefits per institution, or 2.5 percent of total noninterest expenses. The FDIC believes that effects in excess of these thresholds typically represent significant effects for FDIC-supervised banks. For the reasons described below, the FDIC finds it difficult to accurately quantify all of the proposed rule's effects given current information for FDIC-supervised insured depository institutions that meet the definition of a "small entity" under the RFA (small, FDIC-supervised institutions). The FDIC believes that the proposed rule will not have a significant economic impact on a substantial number of small entities because the proposed rule will generally reduce reporting, recordkeeping and other compliance requirements on small, FDIC-supervised banks. However, the proposed rule could present significant indirect benefits to small, FDIC-supervised banks. Therefore, the FDIC has included an initial regulatory flexibility analysis in this section.[267]

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[266] The SBA defines a small banking organization as having $850 million or less in assets, where an organization's "assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year." *See* 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). In its determination, the "SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates." *See* 13 CFR 121.103. Following these regulations, the FDIC uses an insured depository institution's affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the insured depository institution is "small" for the purposes of RFA.

[267] 5 U.S.C. 603(b)-(c).

Reasons why action is being considered

As noted in Section I of this SUPPLEMENTARY INFORMATION, the agencies are proposing targeted changes to the current rule to better align with the statutory mandate, reduce unnecessary burden, and improve clarity.

Statement of the objectives and legal basis for the proposal

As previously noted, the targeted changes are designed to retain the key elements of the current regulatory framework to provide continuity and minimize disruptions while making revisions to accomplish the goals listed above. For further discussion of the policy objectives of the proposal please refer to Section III of this SUPPLEMENTARY INFORMATION.

The FDIC is issuing this proposal under the authorities granted to it under the Community Reinvestment Act of 1977.[268] For a discussion of the legal basis of the proposal, please refer to Section I of this SUPPLEMENTARY INFORMATION.

Description of the proposal and an estimate of the number of small entities

As previously discussed, the proposal would make several amendments to the 1995 CRA regulations, including amendments related to asset-size thresholds, performance tests, community development activities and considerations thereof, strategic plans, and data collection, reporting and disclosure, and public file and public notice.[269] For a more extensive discussion of the proposal, please refer to Section IV of this SUPPLEMENTARY INFORMATION.

As of March 31, 2026, the FDIC supervises 2,700 banks. After excluding eleven special purpose banks, 2,689 FDIC-supervised banks are subject to the CRA. Of these, 1,974 are identified as small institutions under the terms of the RFA (SBA-small).[270] As in the current

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[268] *See, e.g.,* 12 U.S.C. 2905.

[269] The proposal also includes certain other technical amendments to revise, clarify, or otherwise remove obsolete provisions. The FDIC anticipates these amendments will have little to no effect for banks. As such, the effects on banks due to these amendments under the proposal are likely to be *de minimis*.

[270] Call Report data as of March 31, 2026. The 2,700 FDIC-supervised institutions include six insured domestic branches of foreign banks and 11 special purpose banks. The foreign branches are subject to CRA but none are

framework, the proposal uses an institution's total assets as of December 31 of the prior two most recent calendar years or business strategy to place institutions within CRA performance assessment categories. Institutions designated as limited purpose institutions, wholesale institutions, or that operated under an approved strategic plan under the current regulations will continue to be evaluated separately from the institutions evaluated based on their asset size. Various provisions in the proposal would impact four different groups of SBA-small, FDIC-supervised banks: institutions that would be considered small banks under the current CRA performance assessment framework (CRA-small)[271], institutions that would be considered intermediate small (or intermediate under the proposal) (CRA-intermediate small or CRA-intermediate), banks designated as wholesale or limited purpose, and banks examined under a strategic plan.

Under the proposal, the total asset threshold for SBA-small, FDIC-supervised banks that would be considered CRA-small would change from less than $412 million in assets to less than $1 billion in assets. Table 6 summarizes the distribution of institutions across CRA evaluation frameworks under the current regulations and the proposed threshold, including institutions evaluated under approved strategic plans. Following the proposal's increases to the applicable threshold for SBA-small, FDIC-supervised banks, the estimated number of SBA-small, FDIC-supervised banks that would be CRA-small would increase by 439 to 1,958. Of the remaining SBA-small, FDIC-supervised banks, three institutions are currently designated as wholesale or limited purpose institutions, while 13 SBA-small, FDIC-supervised institutions have elected and been approved to use strategic plans.

Table 6. SBA-Small, FDIC-supervised Banks by CRA Performance Assessment Framework

"small entities" for purposes of the RFA. The effects of the proposal's technical amendments are likely to be *de minimis* for the 11 FDIC-supervised special purpose banks, of which four are "small entities" for purposes of the RFA.

[271] Under the current rule, unless specified, CRA-small banks typically include CRA-small banks and CRA-intermediate small banks. In the proposed rule, the term "intermediate bank" replaces the prior "intermediate small bank" terminology. In this analysis, CRA-small bank refers only to the small banks and does not include CRA-intermediate small banks under the current framework or CRA-intermediate banks under the proposal.

	Baseline		Proposal	
	CRA-Small	CRA-Intermediate Small	CRA-Small	CRA-Intermediate
CRA Performance Standards	1,519	439	1,958	0
Strategic Plan	8	5	13	0
Wholesale	2	0	2	0
Limited Purpose	0	1	1	0
Total	1,529	445	1,974	0

Economic Impact

This section evaluates the projected economic effect of the proposal relative to a baseline in which the proposal is not adopted. As previously discussed, a March 29, 2024, court order enjoined the Federal banking agencies from implementing the revisions made by the 2023 CRA rules. Thus, SBA-small, FDIC-supervised banks are currently being evaluated for compliance with CRA in accordance with the 1995 CRA regulations. As such, this analysis assumes that the 1995 CRA regulations would remain in place under the baseline. If finalized, the proposed rule would amend the 1995 CRA regulations to make several substantive, technical, and process-oriented changes. Therefore, relative to the baseline, SBA-small, FDIC-supervised banks would only have to make a few changes to their current CRA policies and procedures in response to the proposal. To the extent any SBA-small, FDIC-supervised banks were devoting resources to updating their current CRA policies and procedures to prepare for the 2023 CRA rules, the proposal would allow them to employ those resources elsewhere.

The proposal is expected to generally reduce compliance costs for 439 SBA-small banks that are CRA-intermediate small banks under the current framework and would be reclassified as CRA-small banks, as these institutions would no longer be subject to a separate community development test under the proposal. The FDIC does not have data on all regulatory compliance costs for such institutions.[272] Such institutions may also benefit from examination standards that

[272] As an illustration of the magnitude of compliance costs, the FDIC estimates that six SBA-small, FDIC-supervised banks that are CRA-intermediate that elected to be evaluated under the large bank tests and reported community development loans data under the baseline incurred, in aggregate, 78 hours for this burden.

are more proportionate to their size and business models. At the same time, these institutions would become subject only to the small bank lending test under the proposal, which may alter the incentives associated with lending and community development activities.

The proposal's suite of changes to the small bank lending test would affect both the 439 institutions that would be reclassified CRA-small under the proposal, and the 1,519 that are CRA-small under the current and proposed frameworks. As discussed previously, and below, the FDIC believes the proposed small bank performance standards are substantively similar to the current standards, so examination procedures and outcomes are unlikely to be affected by the proposal. However, the proposal would provide greater transparency and reduce uncertainty regarding the agencies' evaluation framework, which should reduce the burden incurred by such institutions to comply with the CRA and prepare for CRA examinations.

For the 1,958 SBA-small, FDIC-supervised institutions that would be CRA-small, the proposal would establish a more standardized evaluation approach by identifying major product lines across the applicable lending tests, with two alternative methods for identifying major product lines included in the proposal.[273]

The proposed revisions are expected to reduce variations in examiner judgment and provide greater certainty regarding which retail lending activities will receive CRA consideration. By establishing more objective criteria for selecting which product lines would be evaluated during an examination, the proposed rule would provide banks with greater certainty before an examination starts regarding which products will be evaluated. This may be particularly beneficial for smaller institutions who do not collect and/or report data, as greater certainty regarding the retail lending products subject to review may reduce the compliance burden associated with preparing for examinations and responding to examiner requests.

The proposal may also influence SBA-small banks' CRA planning by concentrating

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[273] *See* Section IV of this SUPPLEMENTARY INFORMATION for a discussion of the two alternative methods.

evaluation on a narrower set of retail lending products. To the extent that lending activities outside the designated major product lines receive less CRA consideration under the proposal relative to the baseline, some institutions may re-allocate resources away from these activities. However, because the proposal primarily standardizes existing examination practices rather than substantially changing lending performance standards, these behavioral effects are expected to be modest.

For the 1,958 SBA-small, FDIC-supervised institutions that would be CRA-small, the proposal would also introduce a meaningful assessment approach to address situations in which retail lending data are insufficient to support the standard evaluation methodology. Because this proposed revision would primarily affect examination methodology rather than substantive performance expectations, it is not expected to materially alter SBA-small, FDIC-supervised banks' lending behavior or compliance obligation. Instead, the proposed revision is expected to improve examination consistency and provide greater certainty regarding how SBA-small, FDIC-supervised institutions with limited lending activity will be evaluated.

The proposal's modifications to the requirements related to strategic plans would affect 13 CRA-small banks (CRA-small strategic plan banks). The FDIC does not believe that, if adopted, the proposal would have a significant impact on CRA compliance requirements for CRA-small strategic plan banks. These institutions face broadly similar examination criteria as they do under the current framework. The amendments in the proposal may increase incentives for SBA-small banks to adopt strategic plans. Thus, the agencies expect more banks to elect to be evaluated under a strategic plan.[274]

Finally, the proposal's revisions to the definition of community development, community development activities and considerations thereof would affect approximately three SBA-small, FDIC-supervised banks currently designated as wholesale or limited purpose banks. To the

[274] Based on estimates from Section VII.D of this SUPPLEMENTARY INFORMATION, the FDIC estimates that six SBA-small, FDIC-supervised banks under the proposal (two more than the baseline) would elect to comply with information collection provisions related to the submission of strategic plans annually.

extent that these banks were confused or unsure about whether a particular activity qualified as community development and the agencies' consideration of community development activities, the proposal would benefit such entities by reducing costs associated with protracted deliberations, unnecessary documentation, incorrect compliance accounting, or foregone investment or services opportunities. In turn, the proposal would benefit certain communities, projects and activities in such circumstances, by reducing costs associated with protracted deliberations, documentation, overhead, as well as foregone community development benefits. The proposal's confirmation process for activities that would qualify as a community development activity would pose some reporting costs for banks that request such a determination. As noted in Section VII.D of this SUPPLEMENTARY INFORMATION, such costs are expected to be *de minimis*.[275] The proposal's amendments to the scope of activities considered to be community development and definitions of community development activities would lead to changes to the scope and size of the type of activities covered entities engage in for the purposes of compliance with the CRA. Such changes may have a distributional effect on community development activities where it may pose some costs and benefits for certain communities and projects. However, the FDIC does not have the information necessary to quantify any such effects.

Reporting, recordkeeping, and other compliance requirements of the proposal

In Section VII.D of this SUPPLEMENTARY INFORMATION, the agencies estimate the recordkeeping, reporting and disclosure burdens under the PRA for all banks under the proposal.[276] The PRA requirements vary in their application to SBA-small, FDIC-supervised banks—some requirements are mandatory for large banks (including those with strategic plans or those designated as wholesale or limited purpose banks) and optional for CRA-small and CRA-

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[275] In addition, as the illustrative list grows over time, the number of such requests would likely diminish.

[276] The recordkeeping, reporting and disclosure requirements are primarily described under proposed § __.25(b), § __.27, § __.42(a) – (g), and § __.43. The FDIC is approved to collect information related to CRA regulations under OMB control number 3064-0092.

intermediate (or CRA-intermediate small) banks, other mandatory requirements apply to all banks or a certain subset, while some PRA requirements only apply for banks that elect certain CRA evaluations (*e.g.*, strategic plans, electing to be evaluated for specific loan product lines), collectively PRA burdens. To estimate the number of affected entities (including any SBA-small, FDIC-supervised banks that elect and assume voluntary PRA burdens) and the overall burden under the proposal, the agencies rely on CRA data submitted by SBA-small, FDIC-supervised banks in 2024, the latest period for which data is available.[277] For SBA-small, FDIC-supervised banks, the agencies estimate no increase in burdens associated with the proposal's amendments/revisions to the mandatory PRA requirements for all banks. Relative to the baseline, the agencies estimate an overall increase in annual voluntary PRA burden for SBA-small, FDIC-supervised banks, in aggregate, of 1,361 hours per year (4.7 percent increase), or $128,000 per year.[278] The increase in voluntary burden of 1,361 hours can be attributed primarily to an increase in annual burden of 4,337 hours for new PRA requirements under the proposal, and an increase of 800 hours under the proposal's revisions to certain existing data maintenance, collection, and reporting requirements.[279] In this section, the agencies discuss the distributional effects of the changes in the overall burdens under the proposal for SBA-small, FDIC-supervised

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[277] As discussed previously, the FDIC also uses Call Report and other public data to place institutions within CRA performance evaluation categories. *See* FFIEC, Community Reinvestment Act 2024 Aggregate & Disclosure Flat Files (2024 CRA Data), *https://www.ffiec.gov/data/cra/flat-files* (accessed July 23, 2026); Call Report data as of March 31, 2026, December 31, 2025, and December 31, 2024.

[278] The FDIC estimates total annual burden hours of 29,162 hours under the baseline, and 30,523 hours under the proposal. Multiplying the change in the burden of 1,361 hours with the estimated wage rate of $93.97 yields approximately $128,000 per year. As of March 31, 2026, the FDIC supervises 2,689 banks that are subject to CRA, which excludes 11 special purpose banks. *See* proposed 12 CFR __11(c)(3).

To estimate the average cost of compensation per hour, the FDIC uses the 75th percentile hourly wages reported by the Bureau of Labor Statistics (BLS) National Industry-Specific Occupational Employment and Wage Estimates (OEWS) for compliance officer and clerical occupations in the Depository Credit Intermediation sector. However, the latest OEWS wage data are as of May 2025 and do not include non-wage compensation. To adjust these wages, the FDIC multiplies the OEWS hourly wages by approximately 1.58 to account for non-wage compensation, using the BLS Employer Cost of Employee Compensation (ECEC) data as of March 2025 (the latest published release prior to the OEWS wage data). The FDIC then multiplies the resulting compensation rates by approximately 1.04 to account for the change in the seasonally adjusted Employment Cost Index for the Credit Intermediation and Related Activities sector (NAICS Code 522) between March 2025 and March 2026.

[279] The FDIC further attributes a decrease in annual burden of 3,776 hours to the FDIC's revisions/updates to the underlying methodology or burden estimates based on supervisory experience. These changes are not related to the proposal.

banks that would be CRA-small, and strategic plan banks.[280]

SBA-small, FDIC-supervised banks that would be CRA-small banks under the proposal would not experience additional burdens associated with the proposal's amendments/revisions to the mandatory PRA requirements for all banks. Using data on CRA-small and CRA-intermediate small banks that voluntarily reported 2024 CRA data the agencies estimate that SBA-small, FDIC-supervised banks that would be CRA-small under the proposal[281] would elect to incur, in aggregate, an additional 612 hours per year (2.2 percent increase[282]) in voluntary PRA burdens, or approximately $58,000 per year.

Using data on small, FDIC-supervised strategic plan banks under the baseline and an estimate of such banks under the proposal, the FDIC estimates that SBA-small, FDIC-supervised strategic plan banks experience a small overall increase in burden of 50 hours per year (2.7 percent increase[283]) or approximately $5,000 per year, relative to such an election under the baseline.[284] The FDIC does not have the data required to estimate the number of strategic plan elections under the proposal, but expect only those SBA-small entities that would expect a net benefit to such an election to do so.

Alternatives considered

The FDIC also considered alternatives to the asset size thresholds that delineate small,

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[280] Where possible, the FDIC allocates the change in overall burden by the various bank types using the banks' classification or designation information for the entities that reported public data or the estimated number of entities by bank type. For one optional provision to report other loan data that is not apportioned by bank size or type, as well as one optional provision related to requests to waive data requirements, the FDIC's revisions to the underlying methodology and burden estimates would increase the associated burden by 699 hours, relative to 25 hours under the baseline, or approximately $66,000 per year.

[281] Where applicable, the FDIC estimates voluntary PRA burdens under the assumption that all the CRA-intermediate small banks that reported voluntarily under the baseline and are reclassified as small banks under the proposal would also report voluntarily under the proposal.

[282] 612 hours / (sum of 17,510 hours estimated under the baseline for SBA-small, FDIC-supervised banks that are CRA-small and 9,732 hours for SBA-small, FDIC-supervised banks that are CRA-intermediate small) = Approximately 2.2 percent.

[283] 50 hours / 1,844 hours estimated under the baseline for SBA-small, FDIC-supervised banks that are strategic plan banks = Approximately 2.7 percent.

[284] This increase is comprised of: (1) an increase of 800 hours due to an increase in the estimated number of SBA-small banks that may submit a strategic plan; and (2) a decrease in annual burden of 750 hours due to the FDIC's revisions/updates to the underlying methodology or burden estimates based on supervisory experience, which is not related to the proposal.

intermediate, and large banks for purposes of CRA. For example, as previously discussed, the agencies are in the process of seeking approval from the SBA to use the proposed $1 billion threshold, adjusted annually for inflation, rather than the SBA's recently updated size standards, which include a $850 million threshold for small banks. In requesting this approval, the agencies seek to reduce burden for smaller banks by keeping them in the small bank category in the CRA performance assessment framework and reclassifying some current CRA-intermediate small banks as CRA-small banks under the proposal. As discussed previously, the agencies' proposed size standard would result in a distribution of banks and bank assets that is substantially similar to the distribution in 1995. For further discussion of the alternative considered please refer to Section IV of this SUPPLEMENTARY INFORMATION.

The FDIC also considered finalizing the 2025 NPR. However, the re-proposal is expected to adhere more closely to the stated objectives of the CRA and provide greater benefits to SBA-small entities, as discussed above, than the 2025 NPR.

Other statutes and Federal rules

The FDIC has not identified any likely duplication, overlap, and/or potential conflict between this proposal and any other federal rule.

The FDIC invites comments on all aspects of the supporting information provided in this RFA section. In particular, would the proposal have any significant effects on small entities that the FDIC has not identified?

B. Unfunded Mandates Reform Act

The OCC has analyzed the proposed rule under the factors in the Unfunded Mandates Reform Act of 1995 (UMRA).[285] Under this analysis, the OCC considered whether the proposed rule includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year

[285] 2 U.S.C. 1531 *et seq.*

($193 million as adjusted annually for inflation). Pursuant to section 202 of the UMRA,[286] if a proposed rule meets this UMRA threshold, the OCC would need to prepare a written statement that includes, among other things, a cost-benefit analysis of the proposal. The UMRA does not apply to regulations that incorporate requirements specifically set forth in law.

The OCC has determined that the proposed rule would not result in an expenditure of $193 million or more annually by State, local, and tribal governments, or by the private sector. Therefore, the OCC finds that the proposed rule does not trigger the UMRA cost threshold. Accordingly, the OCC has not prepared the written statement described in section 202 of the UMRA.

C. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act of 1994, 12 U.S.C. 4802(a), in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, the agencies will consider, consistent with principles of safety and soundness and the public interest: (1) any administrative burdens that the proposed rule would place on depository institutions, including small depository institutions and customers of depository institutions; and (2) the benefits of the proposed rule. The agencies request comment on any administrative burdens that the proposed rule would place on depository institutions, including small depository institutions, and their customers, and the benefits of the proposed rule that the agencies should consider in determining the effective date and administrative compliance requirements for a final rule.

D. Paperwork Reduction Act

Certain provisions of the proposed rule contain "collections of information" within the meaning of the PRA, 44 U.S.C. 3501 through 3521. In accordance with the requirements of the

[286] 2 U.S.C. 1532.

PRA, the agencies may not conduct or sponsor, and the respondent is not required to respond to an information collection unless it displays a currently valid OMB control number. The information collections contained in the proposed rule have been submitted to the OMB for review and approval by the OCC and the FDIC under section 3507(d) of the PRA, 44 U.S.C. 3507(d), and § 1320.11 of the OMB's implementing regulations, 5 CFR part 1320. The agencies are proposing to extend these information collections for three years, with revision.

Title of Information Collection: OCC, Community Reinvestment Act Regulation; FDIC, Community Reinvestment Act.

OMB Control Numbers: OCC 1557-0357; FDIC 3064-0092.

Frequency of Response: On occasion.

Affected Public: Businesses or other for-profits.

Respondents:

OCC: National banks, Federal savings associations, Federal branches and agencies.

FDIC: All insured State nonmember banks, insured State-licensed branches of foreign banks, insured State savings associations, and bank service providers.

Under the proposed rule:

§ __.13(b)(1) – Request for determination of community development activity eligibility. A bank may request that the appropriate Federal financial supervisory agency review a loan, investment, grant, or service to determine if it qualifies for consideration as a community development activity in a bank's CRA examination by submitting a request to, and in a format prescribed by, the appropriate Federal financial supervisory agency.

§ __.25(b) – Designation as a wholesale or limited purpose bank. In order to receive a designation as a wholesale or limited purpose bank, a bank would be required to file a written request with the appropriate Federal financial supervisory agency, at least 90 days prior to the proposed effective date of the designation.

§ __.27 – Strategic plan. A bank may submit a strategic plan to the appropriate Federal financial supervisory agency for approval as provided for in proposed § __.27. The appropriate Federal financial supervisory agency will evaluate a bank's record of meeting the credit needs of its assessment area(s) under an approved strategic plan elected by the bank. A bank's election to be evaluated under a strategic plan does not affect the applicability of the data collection, reporting, and disclosure provisions under proposed § __.42. The proposed rule specifies requirements for the term of a strategic plan, the strategic plan's scope, the treatment of multiple assessment areas, and measurable goals. Additionally, during the term of an approved strategic plan, a bank may request that the appropriate Federal financial supervisory agency approve an amendment to an approved strategic plan based on a material change in circumstances.

§ __.42(a)(1) – Small business and small farm data. A large bank would be required to collect and maintain, in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency), until the completion of its next CRA examination, data on each small business and small farm loan originated or purchased by the bank during the period.

§ __.42(a)(2) – Community development loan, investment, and grant data. A large would be required to collect and maintain in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) until the completion of its next CRA examination, data for each community development loan originated or purchased or community development investment or community development grant made by the bank during the period.

§ __.42(a)(3) – Community development grant data. A large bank would be required to collect and maintain until the completion of its next CRA examination certain additional data for each community development grant made by the bank during the period concerning the use of the funds and limitations on indirect costs of administering the grant.

§ __.42(a)(4) – Consumer lending data. A large bank that has consumer lending as a major product line would be required to collect and maintain, in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency), until the completion of its next CRA examination, data for each consumer loan originated or purchased by the bank during the period.

§ __.42(b)(1) – Small business and small farm loan data (to be reported). A large bank would be required to report annually by March 1 to the appropriate Federal financial supervisory agency in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) certain aggregated data for small business or small farm loans for each census tract in which the bank originated or purchased such loans.

§ __.42(b)(2) – Community development data (to be reported). A large bank would be required to report annually by March 1 to the appropriate Federal financial supervisory agency in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) certain aggregated data for each census tract in which the bank originated or purchased a community development loan or made a community development grant.

§ __.42(b)(3) – Home mortgage loan data to be reported. A large bank that is subject to reporting under part 1003 of this title (Regulation C), would be required to report annually by March 1 to the appropriate Federal financial supervisory agency in machine-readable form, the location of each home mortgage loan application, origination, or purchase outside the MSAs where the bank has a home or branch office.

§ __.42(c) – Other loan data. At its option, a bank may provide other information concerning its lending performance, including additional loan distribution data.

§ __.42(d) – Data on affiliate lending. A bank that elects to have the appropriate Federal financial supervisory agency consider loans by an affiliate, for purposes of the lending test or the community development test or an approved strategic plan, would be required to collect, maintain, and report for those loans the data that the bank would have collected, maintained, and reported pursuant to proposed § __.42(a), (b), and (c) had the loans been originated or purchased by the bank. For home mortgage loans, the bank would also be required to be prepared to identify the home mortgage loans reported under Regulation C by the affiliate.

§ __.42(e) – Data on lending by a consortium or a third party. A bank that elects to have the appropriate Federal financial supervisory agency consider community development loans originated or purchased by a consortium or a third party, for purposes of the lending test, the community development test, or an approved strategic plan, would be required to report for those loans the data that the bank would have reported under proposed § __.42(b)(2) had the loans been originated or purchased by the bank.

§ __.42(f) – Small and intermediate banks electing evaluation under the lending, investment, and service tests. A bank that qualifies for evaluation under the small or intermediate bank performance standards but elects evaluation under the lending, investment, and service tests in proposed §§ __.22 through .24 would be required to collect, maintain, and report the data required for other banks pursuant to proposed § __.42(a) and (b).

§ __.42(g) – Assessment area data. A bank or savings association, except a small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year, would be required to collect and report to the appropriate Federal financial supervisory agency by March 1 of each year a list for each assessment area showing the geographies within the area.

§ __.42(h) – Determination to not require data based on specific circumstances. The appropriate Federal financial supervisory agency may, based on a bank's particular facts and circumstances and upon written request, exempt a bank from one or more of the proposed requirements to collect, maintain, or report data under proposed § __.42(a) through (f) if the appropriate Federal financial supervisory agency determines that the data is not necessary for evaluating the bank's performance or more than minimally useful to the agencies' overall data collection.

§ __.43 – Content and availability of public file. Banks would be required to maintain a public a file containing certain information, including comments received from the public; the bank's most recent CRA performance evaluation; a list of the bank's branches, street addresses, and census tracts; a list of bank branches opened or closed by the bank during the current year and each of the prior two calendar years; a list of the services generally offered at the bank's branches, and a map of each assessment area showing the boundaries of the area and identifying the census tracts contained within the area, either on the map or in a separate list. The bank could include in the file any other information that it chooses. Large banks would also be required to include additional information in the public file, including aggregate loan data and the bank's CRA Disclosure Statement. Banks required to report home mortgage loan data pursuant to the Home Mortgage Disclosure Act (HMDA) would be required to include in its public file a written notice that the bank's HMDA Disclosure Statement may be obtained from the Consumer Financial Protection Bureau's website. Small and intermediate banks would also be required to include certain information, including loan-to-deposit ratio. Banks that have been approved to be assessed under a strategic plan would be required to include a copy of the plan in its public file. A bank that received a less than satisfactory rating during its most recent examination would be required to include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community and this description would be required to be updated quarterly.

§ __.44 – Public notice by banks. A bank would be required to provide on its website, or a website maintained on behalf of the bank, the appropriate CRA notice set forth in Appendix B of this proposed part. A bank would also be required to provide in the public lobby of its main office and in each of its branches a written notice, in printed or digital form, that provides that the institution's CRA notice may be viewed on the bank's website, or a website maintained on behalf of the bank.

Burden Estimates:

Source and Type of Burden	Description	Estimated Number of Respondents	Frequency of Response	Average Estimated Time per Response	Total Estimated Annual Burden
§ __.13(b)(1) Optional Reporting	*Request for determination of community development activity eligibility.*				
	OCC	30	1	8	240
	FDIC	269	1	12	3,228
§ __.25(b) Optional Reporting	*Request for designation as a wholesale bank or limited purpose bank.*				
	OCC	19	1	4	76
	FDIC	1	1	4	4
§ __.27 Optional Reporting	*Strategic plan.*				
	OCC	30	1	275	8,250
	FDIC	20	1	275	5,500
§ __.42(a)(1) Recordkeeping	*Loan data: Small business and small farm.*				
	OCC	77	1	219	16,863
	FDIC	103	1	100	10,300
§ __.42(a)(2) Recordkeeping	*Loan data: Community development, community development investment, or community development grants.*				
	OCC	77	1	300	23,100
	FDIC	98	1	225	22,050
§__.42(a)(3) Recordkeeping	*Loan data: Community development grants.*				
	OCC	77	1	50	3,850

Source and Type of Burden	Description	Estimated Number of Respondents	Frequency of Response	Average Estimated Time per Response	Total Estimated Annual Burden
	FDIC	98	1	50	4,900
§ __.42(a)(4) Recordkeeping	*Loan data: Consumer lending.*				
	OCC	10	1	326	3,260
	FDIC	4	1	326	1,304
§ __.42(b)(1) Reporting	*Loan data: Small business and small farm.*				
	OCC	77	1	8	616
	FDIC	103	1	8	824
§ __.42(b)(2) Reporting	*Loan data: Community development.*				
	OCC	77	1	13	1,001
	FDIC	98	1	29	2,842
§ __.42(b)(3)[287]	*Loan data: Home mortgage loans.*	--	--	--	--
§ __.42(c) Reporting	*Other loan data.*				
	OCC	25	1	25	625
	FDIC	60	1	16	960
§ __.42(d) Reporting	*Data on affiliate lending.*				
	OCC	25	1	38	950
	FDIC	173	1	38	6,574
§ __.42(e) Reporting	*Data on lending by a consortium or a third party.*				
	OCC	16	1	17	272
	FDIC	10	1	17	170
§ __.42(f)[288] Reporting	*Small and intermediate banks electing evaluation under the lending, investment, and service tests.*	--	--	--	--

[287] Covered under OMB control numbers Regulation C-Home Mortgage Disclosure 1557-0345 (OCC) and Home Mortgage Disclosure Act (HMDA) 3064-0046 (FDIC).

[288] Covered by burden in §§ __.42(a) & (b).

Source and Type of Burden	Description	Estimated Number of Respondents	Frequency of Response	Average Estimated Time per Response	Total Estimated Annual Burden
§ __.42(g) Reporting	*Assessment area data.*				
	OCC	57	1	2	114
	FDIC	108	1	2	216
§ __.42(h) Reporting	*Determination to not require data based on specific circumstances.*				
	OCC	10	1	2	20
	FDIC	10	1	2	20
§§ __.43 and __.44 Disclosure	*Public file and public notice.*				
	OCC	963	1	10	9,630
	FDIC	2,689	1	10	26,890
Total Estimated Annual Burden					
	OCC				**68,867**
	FDIC				**85,782**

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agencies, including whether the information has practical utility;

(b) The accuracy of the agencies' estimate of the burden of the collections of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Commenters may submit comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, to the addresses listed in the ADDRESSES caption in the proposed rule. All comments will become a matter of public record. A copy of the comments may also be submitted to the OMB desk officer for the agencies: By mail to U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503; or to *www.reginfo.gov/public/do/PRAMain*. Find this information collection by selecting "Currently under Review—Open for Public Comments" or using the search function.

E. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023,[289] requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002.[290]

The Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation are proposing to amend their Community Reinvestment Act rules by making certain substantive, technical, and process-oriented changes to refocus on the statutory objective of encouraging banks to meet the credit needs of their communities; to better ensure that community development grants reach the communities they are intended to benefit; to reduce unnecessary burden, particularly for community banks; and to provide greater clarity for how to obtain Community Reinvestment Act consideration.

The proposal and the required summary can be found for the OCC at *https://www.regulations.gov* by searching for Docket ID OCC-2026-0694 and *https://occ.gov/topics/laws-and-regulations/occ-regulations/proposed-issuances/index-proposed-issuances.html*.

The proposal and the required summary can be found for the FDIC at *https://www.fdic.gov/federal-register-publications*.

[289] 12 U.S.C. 553(b)(4).

[290] 44 U.S.C. 3501, *note*.

F. Executive Order 12866

Executive Order 12866, titled "Regulatory Planning and Review," as amended, requires the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget to determine whether a proposed rule is a "significant regulatory action" prior to the disclosure of the proposed rule to the public. If the OIRA finds the proposed rule to be a "significant regulatory action," Executive Order 12866 requires the agencies to conduct a cost-benefit analysis of the proposed rule and for the OIRA to conduct a review of the proposed rule prior to publication in the *Federal Register*. Executive Order 12866 defines "significant regulatory action" to mean a regulatory action that is likely to: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

OIRA has determined that this proposed rule is an economically significant regulatory action under Section 3(f)(1) of Executive Order 12866 and, therefore, is subject to review under Executive Order 12866.

G. Executive Order 14192

Executive Order 14192, titled "Unleashing Prosperity Through Deregulation," requires that an agency, unless prohibited by law, identify at least ten existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation with total costs greater than zero. Executive Order 14192 further requires that new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. The agencies expect the proposed rule as finalized will be a deregulatory action under Executive Order 14192 because as explained elsewhere, the final rule should have total costs less than zero.

H. Plain Language

Section 722 of the Gramm-Leach-Bliley Act[291] requires the Federal banking agencies to use plain language in all proposed and final rulemakings published in the ***Federal Register*** after January 1, 2000. The agencies invite your comments on how to make these proposed rules easier to understand. For example:

- Have the agencies organized the material to suit your needs? If not, how could the proposed rules be more clearly stated?
- Are the requirements in the proposed rules clearly stated? If not, how could the proposed rules be more clearly stated?
- Do the proposed rules contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rules easier to understand? If so, what changes to the format would make the proposed rules easier to understand?
- What else could the agencies do to make the proposed rules easier to understand?

List of Subjects

12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 24

[291] Pub. L. 106-102, section 722, 113 Stat. 1338, 1471 (1999), 12 U.S.C. 4809.

Community development, Credit, Investments, Low and moderate income housing, Manpower, National banks, Reporting and recordkeeping requirements, Rural areas, Small businesses.

12 CFR Part 25

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements, Savings associations.

12 CFR Part 35

Community development, Credit, Freedom of information, Investments, National banks, Reporting and recordkeeping requirements.

12 CFR Part 345

Banks, banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

12 CFR Part 346

Banks, banking, Savings associations.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons discussed in the preamble, and under the authority of 12 U.S.C. 93a and 2905, the Office of the Comptroller of the Currency proposes to amend chapter I of title 12, Code of Federal Regulations as follows:

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

1. The authority citation for part 5 is revised to read as follows:

Authority:12 U.S.C. 1 *et seq.*, 24a, 35, 93a, 214a, 215, 215a, 215a-1, 215a-2, 215a-3, 215c, 371d, 481, 1462a, 1463, 1464, 1817(j), 1831i, 1831u, 1835a, 2901 *et seq.*, 3101 *et seq.*, 3907, and 5412(b)(2)(B).

2. Add subpart G, consisting of §§ 5.100 through 5.104, to read as follows:

Subpart G—Prohibition Against Use of Interstate Branches Primarily for Deposit Production

Subpart G—Prohibition Against Use of Interstate Branches Primarily for Deposit Production

§ 5.100 Purpose and scope.

(a) *Purpose.* The purpose of this subpart is to implement section 109 (12 U.S.C. 1835a) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act).

(b) *Scope.* (1) This subpart applies to any national bank that has operated a covered interstate branch for a period of at least one year, and any foreign bank that has operated a covered interstate branch that is a Federal branch for a period of at least one year.

(2) This subpart describes the requirements imposed under 12 U.S.C. 1835a, which requires the appropriate Federal banking agencies (the OCC, the Board of Governors of the Federal Reserve System, and the FDIC) to prescribe uniform rules that prohibit a bank from using any authority to engage in interstate branching pursuant to the Interstate Act, or any amendment made by the Interstate Act to any other provision of law, primarily for the purpose of deposit production.

§ 5.101 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Bank* means, unless the context indicates otherwise:

(1) A national bank; and

(2) A foreign bank as that term is defined in 12 U.S.C. 3101(7) and 12 CFR 28.11(i).

(b) *Covered interstate branch* means:

(1) Any branch of a national bank, and any Federal branch of a foreign bank, that:

(i) Is established or acquired outside the bank's home State pursuant to the interstate branching authority granted by the Interstate Act or by any amendment made by the Interstate Act to any other provision of law; or

(ii) Could not have been established or acquired outside of the bank's home State but for the establishment or acquisition of a branch described in paragraph (b)(1)(i) of this section; and

(2) Any bank or branch of a bank controlled by an out-of-State bank holding company.

(c) *Federal branch* means Federal branch as that term is defined in 12 U.S.C. 3101(6) and 12 CFR 28.11(h).

(d) *Home State* means:

(1) With respect to a State bank, the State that chartered the bank;

(2) With respect to a national bank, the State in which the main office of the bank is located;

(3) With respect to a bank holding company, the State in which the total deposits of all banking subsidiaries of such company are the largest on the later of:

(i) July 1, 1966; or

(ii) The date on which the company becomes a bank holding company under the Bank Holding Company Act;

(4) With respect to a foreign bank:

(i) For purposes of determining whether a U.S. branch of a foreign bank is a covered interstate branch, the home State of the foreign bank as determined in accordance with 12 U.S.C. 3103(c) and 12 CFR 28.11(n); and

(ii) For purposes of determining whether a branch of a U.S. bank controlled by a foreign bank is a covered interstate branch, the State in which the total deposits of all banking subsidiaries of such foreign bank are the largest on the later of:

(A) July 1, 1966; or

(B) The date on which the foreign bank becomes a bank holding company under the Bank Holding Company Act.

(e) *Host State* means a State in which a covered interstate branch is established or acquired.

(f) *Host State loan-to-deposit ratio* generally means, with respect to a particular host State, the ratio of total loans in the host State relative to total deposits from the host State for all banks (including institutions covered under the definition of "bank" in 12 U.S.C. 1813(a)(1)) that have that State as their home State, as determined and updated periodically by the appropriate Federal banking agencies and made available to the public.

(g) *Out-of-State bank holding company* means, with respect to any State, a bank holding company whose home State is another State.

(h) *State* means State as that term is defined in 12 U.S.C. 1813(a)(3).

(i) *Statewide loan-to-deposit ratio* means, with respect to a bank, the ratio of the bank's loans to its deposits in a State in which the bank has one or more covered interstate branches, as determined by the OCC.

§ 5.102 Loan-to-deposit ratio screen.

(a) *Application of screen.* Beginning no earlier than one year after a covered interstate branch is acquired or established, the OCC will consider whether the bank's statewide loan-to-deposit ratio is less than 50 percent of the relevant host State loan-to-deposit ratio.

(b) *Results of screen.* (1) If the OCC determines that the bank's statewide loan-to-deposit ratio is 50 percent or more of the host State loan-to-deposit ratio, no further consideration under this subpart is required.

(2) If the OCC determines that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank's statewide loan-to-deposit ratio, the OCC will make a credit needs determination for the bank as provided in § 5.103.

§ 5.103 Credit needs determination.

(a) *In general.* The OCC will review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities in the host state that are served by the bank.

(b) *Guidelines.* The OCC will use the following considerations as guidelines when making the determination pursuant to paragraph (a) of this section:

(1) Whether covered interstate branches were formerly part of a failed or failing depository institution;

(2) Whether covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution's business or loan portfolio;

(3) Whether covered interstate branches have a high concentration of commercial or credit card lending, trust services, or other specialized activities, including the extent to which the covered interstate branches accept deposits in the host state;

(4) The CRA ratings received by the bank, if any;

(5) Economic conditions, including the level of loan demand, within the communities served by the covered interstate branches;

(6) The safe and sound operation and condition of the bank; and

(7) The OCC's CRA regulations (12 CFR part 25) and interpretations of those regulations.

§ 5.104 Sanctions.

(a) *In general.* If the OCC determines that a bank is not reasonably helping to meet the credit needs of the communities served by the bank in the host state, and that the bank's statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, the OCC:

(1) May order that a bank's covered interstate branch or branches be closed unless the bank provides reasonable assurances to the satisfaction of the OCC, after an opportunity for public comment, that the bank has an acceptable plan under which the bank will reasonably help to meet the credit needs of the communities served by the bank in the host state; and

(2) Will not permit the bank to open a new branch in the host state that would be considered to be a covered interstate branch unless the bank provides reasonable assurances to the satisfaction of the OCC, after an opportunity for public comment, that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(b) *Notice prior to closure of a covered interstate branch.* Before exercising the OCC's authority to order the bank to close a covered interstate branch, the OCC will issue to the bank a notice of the OCC's intent to order the closure and will schedule a hearing within 60 days of issuing the notice.

(c) *Hearing.* The OCC will conduct a hearing scheduled under paragraph (b) of this section in accordance with the provisions of 12 U.S.C. 1818(h) and 12 CFR part 19.

PART 24—COMMUNITY AND ECONOMIC DEVELOPMENT ENTITIES, COMMUNITY DEVELOPMENT PROJECTS, AND OTHER PUBLIC WELFARE INVESTMENTS

3. The authority citation for part 24 continues to read as follows:

Authority: 12 U.S.C. 24(Eleventh), 93a, 481, and 1818.

§ 24.2 [Amended]

4. Amend § 24.2 by:

a. In the introductory text of paragraph (c), removing "§ 25.23 of appendix G to 12 CFR part 25" and adding "12 CFR 25.23" in its place.

b. In paragraph (f), removing "§ 25.12(m) of appendix G to 12 CFR part 25" and adding "12 CFR 25.12(m)" in its place.

§ 24.3 [Amended]

5. Amend § 24.3 by removing "§ 25.23 of appendix G to 12 CFR part 25" and adding in its place "12 CFR 25.23".

§ 24.7 [Amended]

6. Amend § 24.7 in paragraph (b) by removing "§ 25.23 of appendix G to 12 CFR part 25" and adding in its place "12 CFR 25.23".

7. Part 25 is revised to read as follows:

PART 25—COMMUNITY REINVESTMENT ACT

Subpart A—General

Sec.

25.11 Authority, purposes, scope, and severability.

25.12 Definitions.

25.13 Consideration of community development activities.

25.14 Responsiveness.

Subpart B—Standards for Assessing Performance

Sec.

25.21 Performance tests, standards, and ratings, in general.

25.22 Lending test.

25.23 Investment test.

25.24 Service test.

25.25 Community development test for wholesale or limited purpose banks and savings associations.

25.26 Performance standards for small banks and savings associations and intermediate banks and savings associations.

Subpart C—Records, Reporting, and Disclosure Requirements

Sec.

Authority: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1462a, 1463, 1464, 1828(c), 1835a, 2901 through 2908, 3101 through 3111, and 5412(b)(2)(B).

Subpart A—General

§ 25.11 Authority, purposes, scope, and severability.

(a) *Authority and OMB control number*—(1) *Authority.* The authority for subparts A, B, and C, is 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1462a, 1463, 1464, 1828(c), 1835a, 2901 through 2908, 3101 through 3111, and 5412(b)(2)(B).

(2) *OMB control number.* The information collection requirements contained in this part were approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 1557-0357.

(b) *Purposes.* In enacting the Community Reinvestment Act (CRA), Congress required each appropriate Federal financial supervisory agency to publish regulations to carry out the purposes of the Act. The purpose of the CRA is to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions. This part is intended to carry out the purposes of the CRA by—

(1) Establishing the framework and criteria by which the Office of the Comptroller of the Currency (OCC) or the Federal Deposit Insurance Corporation (FDIC), as appropriate, assesses a bank's or savings association's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank or savings association; and

(2) Providing that the OCC takes that record into account in considering certain applications.

(c) *Scope*—(1) *General.* (i) This part applies to all banks and savings associations except as provided in paragraphs (c)(2) and (3) of this section.

(ii) With respect to this part—

(A) The OCC has the authority to prescribe these regulations for national banks, Federal savings associations, and State savings associations and has the authority to enforce these regulations for national banks and Federal savings associations.

(B) The FDIC has the authority to enforce these regulations for State savings associations.

(2) *Federal branches and agencies.* (i) This part applies to all insured Federal branches and to any Federal branch that is uninsured that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)).

(ii) Except as provided in paragraph (c)(2)(i) of this section, this part does not apply to Federal branches that are uninsured, limited Federal branches, or Federal agencies, as those terms are defined in part 28 of this chapter.

(3) *Certain special purpose banks and savings associations.* This part does not apply to special purpose banks or special purpose savings associations that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other

than on an incidental basis. These banks or savings associations include banker's banks, as defined in 12 U.S.C. 24(Seventh), and banks or savings associations that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks or savings associations, trust companies, or clearing agents.

(d) *Severability*. The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the OCC's intention that the remaining provisions will continue in effect.

§ 25.12 Definitions.

For purposes of this part, the following definitions apply—

Affiliate means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

Appropriate Federal financial supervisory agency means

(1) The OCC when the institution is a bank or Federal savings association; and

(2) The FDIC when the institution is a State savings association with Federally insured deposits.

Area median income means—

(1) The median family income for the MSA, if a person or census tract is located in an MSA, or for the metropolitan division, if a person or census tract is located in an MSA that has been subdivided into metropolitan divisions; or

(2) The statewide nonmetropolitan median family income, if a person or census tract is located in a nonmetropolitan area.

Assessment area means a geographic area delineated in accordance with § 25.41.

Automated teller machine (ATM) means an automated, unstaffed banking facility available and accessible to members of the public owned or operated by, or operated exclusively for, the bank or savings association at which deposits are received, cash dispersed, or money lent.

Bank means, except as provided in § 25.11(c), a national bank (including a Federal branch as defined in part 28 of this chapter) with Federally insured deposits.

Branch means a banking facility authorized as a branch.

Census tract means a census tract delineated by the U.S. Bureau of the Census in the most recent decennial census.

Community development means—

(1) *Affordable housing*, which means—

(i) Rental housing that is—

(A) Likely to be inhabited by low- or moderate-income individuals or families as demonstrated by median rents that do not and are not projected at the time of the transaction to exceed 30 percent of 80 percent of the area median income;

(B) Inhabited by low- or moderate-income individuals or families and is mixed-income housing, such as in connection with a development that has a mixed-income housing component or an affordable housing set-aside required by Federal, State, or local government, in which case the pro rata dollar amount of the total activity will be based on the percentage of units set-aside for affordable housing for low- or moderate-income individuals;

(C) Likely to be inhabited by low-, moderate-, or middle-income individuals or families as demonstrated by median rents that do not and are not projected at the time of the transaction to exceed 30 percent of 120 percent of the area median income in high-cost areas; or

(D) Undertaken in conjunction with an explicit Federal, State, local, or Tribal government affordable housing program for low- or moderate-income individuals or families; or

(ii) Owner-occupied housing purchased, refinanced, or improved by or on behalf of low- or moderate-income individuals or families, except for home mortgage loans provided directly to individuals or families; or

(2) *Civic assistance*, which means—

(i) Providing support or financing for childcare, education (including low-cost education loans), workforce development, job training, healthcare, housing assistance, financial literacy, homebuyer counseling, or other community-focused assistance that—

(ii) Serves, assists, or is reasonably expected to serve or assist low- or moderate-income individuals or families; or

(3) *Economic development*, which means—

(i) Financing—

(A) For businesses or farms that meet the size eligibility standards of the U.S. Small Business Administration Development Company (13 CFR 121.301) or Small Business Investment Company (13 CFR 121.301 and 121.201) programs or have gross annual revenues of $1 million or less;

(B) That expands, improves, or preserves the business's or farm's productive capacity, physical presence, or employment bases, excluding financing primarily used for ongoing operating liquidity; and

(C) That is not reasonably likely to result in a reduction in jobs at the business or farm;

(ii) Technical assistance and supportive services, such as shared space, technology, or administrative assistance for businesses or farms that meet the size eligibility standards of the U.S. Small Business Administration Development Company (13 CFR 121.301) or Small Business Investment Company (13 CFR 121.301 and 121.201) programs or have gross annual revenues of $1 million or less;

(iii) Federal, State, local, or Tribal government programs, projects, or initiatives that serve small businesses or small farms as those terms are defined in the programs, projects, or initiatives, including a—

(A) U.S. Small Business Administration Certified Development Company, as that term is defined in 13 CFR 120.10;

(B) Small Business Investment Company, as described in 13 CFR part 107;

(C) Qualified Community Development Entity, as defined in 26 U.S.C. 45D(c);

(D) U.S. Department of Agriculture Rural Business Investment Company, as defined in 7 CFR 4290.50; or

(E) Community Development Financial Institution that finances small businesses or small farms; or

(4) *Revitalization or stabilization of targeted geographic areas*, which means—

(i) Activities that revitalize or stabilize—

(A)(*1*)(*i*) Low- or moderate-income census tracts;

(*ii*) Distressed or underserved nonmetropolitan middle-income census tracts;

(*iii*) Indian country or other Tribal and native lands; or

(*iv*) Any other area targeted by a government entity for redevelopment that qualifies for significant economic incentives, such as tax credits, tax abatements, or grants; and

(*2*) By providing financing or other support to the targeted geographic areas in paragraph (4)(i)(A)(*1*) of this definition for—

(*i*) Essential community facilities or essential infrastructure;

(*ii*) Federal, State, local, or Tribal government programs, projects, or initiatives that are consistent with a bona fide government revitalization or stabilization plan;

(*iii*) Programs, projects, or initiatives that assist individuals and communities with preparing for, adapting to, or withstanding natural disasters; or (*iv*) Programs, projects, or initiatives with a primary purpose of attracting or retaining a major employer that will create long-term job opportunities (*i.e.*, reasonably likely to have a meaningful direct or indirect impact on unemployment in the targeted geographic area); or

(B) A designated disaster area by providing financing or other support consistent with a disaster recovery plan, including activities that assist individuals and communities in the designated disaster area to prepare for, adapt to, or withstand natural disasters.

Community development activity means a community development grant, community development investment, community development loan, or community development service.

Community development activity location. A community development activity is located in—

(1) The assessment area(s) that are benefited or served by the activity; or

(2) The State(s) or multistate MSA(s) that are benefited or served by the activity.

Community development grant means a grant or donation that—

(1) Will be directly used by the recipient for a program, project, or initiative that has as its primary purpose community development;

(2) Except as specified in § 25.13(e), benefits the bank's or savings association's assessment area(s); and

(3) For a large bank or savings association, is provided to a recipient whose indirect costs for administering the grant or donation may not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard.

Community development investment means a security or a deposit or membership share in a financial institution, including a legally binding commitment to invest, that—

(1) Has as its primary purpose community development,

(2) Is permissible under applicable laws, rules, and regulations, and

(3) Except as specified in § 25.13(e), benefits the bank's or savings association's assessment area(s).

Community development loan means a loan, including a legally binding commitment to lend, that—

(1) Has as its primary purpose community development;

(2) Has not been considered by the appropriate Federal financial supervisory agency in the bank's or savings association's assessment as a home mortgage, small business, small farm, or consumer loan, unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title) or is a low-cost education loan; and

(3) Except as specified in § 25.13(e), benefits the bank's or savings association's assessment area(s).

Community development service means a volunteer service performed by a bank or savings association employee representing the bank or savings association that—

(1) Has as its primary purpose community development;

(2) Is related to the provision of financial services or the employee's area of expertise at the bank; and

(3) Except as specified in § 25.13(e), benefits the bank's or savings association's assessment area(s).

Complexity means the extent to which a bank's or savings association's—

(1) Community development investment, community development grant, or community development service is a necessary or otherwise beneficial component of a multicomponent financing transaction involving a loan; or

(2) Community development loan or community development investment that is the functional equivalent of a loan that otherwise requires specialized expertise in order to consummate the transaction (*e.g.*, a community development activity that is not routinely provided by private investors, such as an activity that relies on public subsidies).

Consumer loan means a loan to one or more individuals for household, family, or other personal expenditures as defined in Schedule RC-C of the instructions for preparation of

Consolidated Reports of Condition and Income, including the categories of credit cards, other revolving credit plans, automobile loans, and other consumer loans.

Designated disaster area means a geographic area that is the subject of a Major Disaster Declaration by the Federal Emergency Management Association for a period of 36 months after the declaration, unless extended by the OCC and FDIC in writing.

Distressed or underserved nonmetropolitan middle-income census tract means

(1) A middle-income census tract designated by the Board of Governors of the Federal Reserve System, FDIC, and the OCC as distressed or underserved based on the criteria in paragraph (2) of this definition, compiled in a list, and published annually by the Federal Financial Institutions Examination Council.

(2) A nonmetropolitan middle-income census tract is designated as—

(i) Distressed if it is in a county that meets one or more of the following criteria—

(A) An unemployment rate of at least 1.5 times the national average;

(B) A poverty rate of 20 percent or more; or

(C) A population loss of 10 percent or more between the previous and most recent decennial census or a net migration loss of 5 percent or more over the five-year period preceding the most recent census.

(ii) Underserved if it meets the criteria for population size, density, and dispersion that indicate the area's population is sufficiently small, thin, and distant from a population center to likely have difficulty financing the fixed costs of meeting essential community needs. The criteria for these designations are based on the Urban Influence Codes established by the U.S. Department of Agriculture's Economic Research Service numbered "6," "8," or "9."

Essential community facility means a facility that is open to the public and that provides a valuable resource or service, including a school, library, park, supermarket, hospital or other healthcare facility, public safety facility, or youth or community center.

Essential infrastructure means—

(1) Public infrastructure, including public roads, bridges, and tunnels; and

(2) Essential telecommunications infrastructure, mass transit, water supply and distribution, utilities supply and distribution, sewage treatment and collection, industrial parks, or other similar infrastructure that is provided as part of a public and private partnership.

Home mortgage loan means a closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title, and that is not an excluded transaction under § 1003.3(c)(1) through (10) and (13) of this title.

Income level includes—

(1) *Low-income,* which means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a census tract.

(2) *Moderate-income,* which means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 and less than 80 percent, in the case of a census tract.

(3) *Middle-income,* which means an individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 and less than 120 percent, in the case of a census tract.

(4) *Upper-income,* which means an individual income that is 120 percent or more of the area median income, or a median family income that is 120 percent or more, in the case of a census tract.

Incidental basis means—

(1) Provided infrequently as an—

(i) Incident to a bank's or savings association's specialized operations; or

(ii) Accommodation to the bank's or savings association's customers; and

(2) Not provided as a lending product the bank or savings association advertises or markets to the public or its customers; and

(3) For purposes of paragraph (1) of this definition and with respect to the definition of a wholesale bank or savings association or a limited purpose bank or savings association, incidental lending constitutes no more than 5 percent of the bank's or savings association's total lending as of December 31 of both of the prior two calendar years.

Indian country means a geographic area that is—

(1) Covered by 18 U.S.C. 1151; or

(2) A Tribal Census Tract, an Oklahoma Tribal Statistical Area, a Tribal Designated Statistical Area, an Alaskan Native Village Statistical Area, or an American Indian Joint-Use Area, as those terms are defined by the U.S. Bureau of the Census.

Intermediate bank or savings association means a bank or savings association with assets of $10 billion or less as of December 31 of either of the prior two calendar years and that is not a small bank or savings association.

Large bank or savings association means a bank or savings association with assets of more than $10 billion as of December 31 of both of the prior two calendar years.

Limited purpose bank or savings association means a bank or savings association that—

(1) Offers only a narrow product line (such as credit card or motor vehicle loans);

(2) Offers other types of loans only on an incidental basis; and

(3) For which a designation as a limited purpose bank or savings association is in effect, in accordance with § 25.25(b).

Loan location means the following, with respect to retail loans—

(1) A consumer loan is located in the census tract where the borrower resides;

(2) A home mortgage loan is located in the census tract where the property securing the loan is located; and

(3) A small business or small farm loan is located in the census tract where the main business facility or farm property securing the loan is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

Loan production office means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

Low-cost education loan means any education loan, as defined in section 140(a)(7) of the Truth in Lending Act (15 U.S.C. 1650(a)(7)) (including a loan under a State or local education loan program), originated by the bank or savings association for a student at an "institution of higher education," as that term is defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002) and the implementing regulations published by the U.S. Department of Education, with interest rates and fees no greater than those of comparable education loans offered directly by the U.S. Department of Education. Such rates and fees are specified in section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e).

Metropolitan division means a metropolitan division as defined by the Director of the Office of Management and Budget.

Military bank or savings association—(1) *Definition*. *Military bank or savings association* means a bank or savings association whose business predominately consists of serving the needs of military personnel who serve or have served in the U.S. Armed Forces (including the U.S. Army, U.S. Navy, U.S. Marine Corps, U.S. Air Force, U.S. Coast Guard, and U.S. Space Force) or dependents of U.S. military personnel.

(2) *Standard.* A bank's or savings association's business predominately consists of serving the needs of U.S. military personnel or their dependents if the bank's or savings association's most important customer group is U.S. military personnel or their dependents.

MSA means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

Nonmetropolitan area means any area that is not located in an MSA.

Other Tribal and native lands mean State Designated Tribal Statistical Areas, as defined by the U.S. Bureau of the Census, and Hawaiian Home Lands.

Savings association means, except as provided in § 25.11(c), a Federal savings association or a State savings association.

Small bank or savings association—

(1) *Definition*. Small bank or savings association means a bank or savings association that, as of December 31 of either of the prior two calendar years, had assets of less than $1 billion (adjusted annually pursuant to paragraph (2) of this definition).

(2) *Adjustment*. The OCC adjusts and publishes the dollar figure in paragraph (1) of this definition on its website, *www.occ.gov*. The adjustment is published by the appropriate Federal financial supervisory agency based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million.

Small business loan means a loan included in "loans to small businesses" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

Small farm loan means a loan included in "loans to small farms" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

Tier 1 capital means tier 1 capital, as defined in 12 CFR 3.2 or, for State savings associations, in 12 CFR 324.2.

Wholesale bank or savings association means a bank or savings association that—

(1) Is not in the business of extending home mortgage, small business, small farm, or consumer loans, other than on an incidental basis; and

(2) The appropriate Federal financial supervisory agency has designated as a wholesale bank or wholesale savings association, in accordance with § 25.25(b).

§ 25.13 Consideration of community development activities.

(a) *Illustrative list*—(1) *Maintaining the illustrative list.* Each appropriate Federal financial supervisory agency separately maintains and makes available to the public a non-exhaustive, illustrative list of examples of community development activities. The illustrative list may include examples of loans, investments, grants, and services that the appropriate Federal financial supervisory agency has determined are not community development activities. The list is available on the appropriate Federal financial supervisory agency's website.

(2) *Modifications to the illustrative list.* The appropriate Federal financial supervisory agency will periodically update the illustrative list described in paragraph (a)(1) of this section.

(b) *Confirmation of community development activity eligibility.* (1) *Request for confirmation of eligibility.* A bank or savings association may request that the appropriate Federal financial supervisory agency review a loan, investment, grant, or service to confirm if it qualifies for consideration as a community development activity in a bank's or savings association's CRA examination by submitting a request to, and in a format prescribed by, the appropriate Federal financial supervisory agency.

(2) *Process for confirming eligibility.* (i) To confirm the community development activity eligibility of a loan, investment, grant, or service for which a request has been submitted under paragraph (b)(1) of this section, the appropriate Federal financial supervisory agency considers—

(A) Information that describes the community development purpose and otherwise supports the request;

(B) Whether the activity is consistent with the safe and sound operation of the bank; and

(C) Any other information that the appropriate Federal financial supervisory agency deems relevant.

(ii) The appropriate Federal financial supervisory agency may impose limitations or requirements on a confirmation that a loan, investment, grant, or service qualifies as a community development activity to ensure consistency with this part.

(3) *Notification of eligibility.* (i) The appropriate Federal financial supervisory agency notifies the requestor in writing of any confirmation of community development activity eligibility under paragraph (b)(2) of this section, as well as the rationale for such determination. The appropriate Federal financial supervisory agency communicates a response within 90 days

after the request is received by the agency, unless the agency notifies the requestor that additional time is needed to consider a request.

(ii) The bank or savings association must retain any notification of eligibility issued pursuant to this paragraph until the completion of its next CRA examination.

(c) *Eligible community development activities, consideration.* In assessing a bank's or savings association's CRA performance under this part, the appropriate Federal financial supervisory agency will consider any community development activity that was eligible for CRA consideration at the time the bank or savings association conducted the activity in that bank's or savings association's CRA examination if the activity was conducted during the evaluation period or remains on a bank's or savings association's balance sheet.

(d) *Community development activities in assessment areas.*

(1) *Scope.* A community development activity benefits or serves a bank's or savings association's assessment area(s) if—

(i) The project, program, or initiative supported by the activity or the recipient of the proceeds or beneficiary of the activity is located in the bank's or savings association's assessment area; or

(ii) The activity has a purpose, mandate, or function of benefiting or serving the bank's or savings association's assessment area(s).

(2) *Assessment area allocation.* (i) Community development activities that benefit or serve more than one assessment area will be allocated based on—

(A) Documentation of the physical address of the recipient of the proceeds or the beneficiary of the activity, if available; or

(B) The weight assigned to each assessment area benefited or served as provided in paragraph (d)(3).

(3) *Assigning assessment area weight(s).* (i) For purposes of allocating community development loans, community development investments, and community development grants to

assessment areas under paragraph (d)(2) of this section, the appropriate Federal financial supervisory agency will assign a weight to an assessment area based on the proportion of deposits in the assessment area as determined by—

(A) The available Summary of Deposits survey data published by the FDIC for the latest year in the evaluation period under the methodology provided in appendix C to this part; or

(B) At the bank's option, another reasonable methodology, as approved by the appropriate Federal financial supervisory agency.

(ii) In allocating deposits under paragraph (d)(3)(i)(B) of this section, a bank or savings association—

(A) Must assign assessment area weight(s) such that the aggregate of the weight(s) equals 100 percent; and

(B) May use all of the deposits included in the Summary of Deposits survey data published by the FDIC or a reasonable subset thereof based on the bank's or savings association's business strategy, such as retail customer deposits or domestic deposits, as approved by the appropriate Federal financial supervisory agency.

(e) *Community development activities outside assessment area(s)*. (1) *In general*— (i) The appropriate Federal financial supervisory agency will consider, at a bank's or savings association's option, community development activities that benefit or serve areas outside of the bank's or savings association's assessment area(s) provided that the bank or savings association meets or exceeds the applicable geographic flexibility standard(s) provided in paragraphs (e)(2)(i) and (ii) of this section, subject to paragraphs (e)(3) and (4) of this section.

(ii) A community development activity benefits or serves an area outside of a bank's or savings association's assessment area(s) if the activity does not benefit or serve one or more of the bank's or savings association's assessment areas as provided in paragraph (d)(1) of this section.

[OPTION 1 FOR PARAGRAPHS (e)(2) – (4)]

(2) *Geographic flexibility standards.* The geographic flexibility standard(s) are calculated on an assessment area basis as follows—

(i) *Large banks*. (A) *Community development loans*. For each year in the evaluation period, a large bank must expend at least 0.625 percent of the bank's or savings association's tier 1 capital allocated based on the weight assigned to the assessment area, as provided in paragraph (d)(3) of this section, toward community development loans that receive consideration in the bank's assessment area(s), as provided in paragraphs (d)(1) and (2) of this section; and

(B) *Community development investments and community development grants.* For each year in the evaluation period, a large bank must expend at least 0.625 percent of the bank's or savings association's tier 1 capital allocated based on the weight assigned to the assessment area, as provided in paragraph (d)(3) of this section, toward community development investments and community development grants in the aggregate that receive consideration in the bank's assessment area(s), as provided in paragraphs (d)(1) and (2) of this section.

(ii) Intermediate banks and savings associations, wholesale banks and savings associations, and limited purpose banks and savings associations. For each year in the evaluation period, an intermediate bank or savings association, wholesale bank or savings association, or limited purpose bank or savings association must expend at least 1.25 percent of the bank's or savings association's tier 1 capital allocated based on the weight assigned to the assessment area, as provided in paragraph (d)(3) of this section, toward community development loans, community development investments, and community development grants in the aggregate that receive consideration in the bank's or savings association's assessment area(s), as provided in paragraphs (d)(1) and (2) of this section.

(3) *Geographic flexibility standard, exception*. Notwithstanding the requirements in paragraph (e)(2)(i) and (ii) of this section, the appropriate Federal financial supervisory agency may determine based on performance context that a bank or savings association that has extended a lesser dollar amount of community development loans or community development

investments and community development grants, as applicable, has sufficiently met the community development needs of its assessment area(s) to receive consideration for community development activities outside of its assessment area(s).

(4) *Geographic scope of consideration of community development activities outside assessment area(s).* A bank or savings association that does not meet the standards in paragraph (e)(2) or the exception in paragraph (e)(3) of this section in all of its assessment areas will only receive consideration for community development activities conducted outside of its assessment areas in the assigned rating for any State or multistate MSA in which the bank or savings association met the standards in paragraph (e)(2) or the exception in paragraph (e)(3) of this section for all of the assessment areas in the State or multistate MSA.

[OPTION 2 FOR PARAGRAPHS (e)(2) – (4)]

(2) *Geographic flexibility standards*. A bank or savings association meets the geographic flexibility standard for serving the community development needs of an assessment area if the bank or savings association has an adequate level of community development activities in the assessment area over the evaluation period, considering the dollar amount and responsiveness of community development activities to assessment area community development needs.

(3) [Reserved]

(4) *Geographic scope of consideration of community development activities outside assessment area(s)*. A bank or savings association that does not meet the geographic flexibility standard(s) in all of its assessment areas will not receive consideration for community development activities conducted outside of its assessment areas in the assigned rating for any State or multistate MSA in which the bank or savings association does not meet the geographic flexibility standard. A bank or savings association will only receive consideration for community development activities conducted outside of its assessment areas in the assigned rating for any State or multistate MSA in which the bank or savings association meets the geographic flexibility standard for all of the assessment areas in the State or multistate MSA.

(5) *Consideration in assigned ratings*. The appropriate Federal financial supervisory agency will consider community development activities that benefit or serve an area outside a bank's of savings association's assessment area(s) in assigning a bank or savings association a rating for a State, multistate MSA, or the bank.

(i) *Rating level—(A*) *State or multistate MSA assigned rating.* The appropriate Federal financial supervisory agency will consider a community development activity in assigning a State or multistate MSA rating, as applicable, if the bank or savings association is rated in the State or multistate MSA pursuant to 12 U.S.C. 2906(d) and the community development activity benefits or serves the State or multistate MSA; or

(*B*) *Bank or savings association assigned rating.* The appropriate Federal financial supervisory agency will consider a community development activity in assigning the overall bank or savings association rating if the community development activity was not considered at the State or multistate MSA level.

(ii) *Rating area allocation*. A community development activity considered at the State or multistate MSA level pursuant to paragraph (e)(5)(i)(A) that benefits or serves more than one State or multistate MSA will be allocated based on—

(A) Documentation of the physical address of the recipient of the proceeds of the beneficiary of the activity, if available; or

(B) The aggregate weight of the assessment area(s) located in the State or multistate MSA in accordance with paragraph (d)(3) within each state or multistate MSA.

§ 25.14 Responsiveness.

(a) *Responsiveness generally.* Under the applicable performance tests and standards in §§ 25.22 through 25.26, the appropriate Federal financial supervisory agency assesses the responsiveness of a bank's or savings association's retail lending activities, retail banking services, and community development activities in meeting community development and credit needs based on paragraph (b) of this section and, in the context of that assessment, may take into account applicable performance context factors pursuant to § 25.21(b).

(b) *Responsiveness factors.* The factors considered in assessing the responsiveness of a bank's or savings association's retail lending activities, retail banking services, and community development activities include—

(1) The innovativeness, flexibility, complexity, or impact of a retail lending activity, retail banking service, or community development activity, as applicable; and

(2) The quality of a bank's retail lending activities, retail banking services, and community development activities as demonstrated, for example, by the success of the activity or service in meeting an identified community development or credit need.

Subpart B—Standards for Assessing Performance

§ 25.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards.* The appropriate Federal financial supervisory agency assesses the CRA performance of a bank or savings association in an examination as follows—

(1) *Lending, investment, and service tests.* The appropriate Federal financial supervisory agency applies the lending, investment, and service tests, as provided in §§ 25.22 through 25.24, in evaluating the performance of a bank or savings association, except as provided in paragraphs (a)(2), (3), (4), (5), and (6) of this section.

(2) *Community development test for wholesale or limited purpose banks and savings associations.* The appropriate Federal financial supervisory agency applies the community development test for a wholesale or limited purpose bank or savings association, as provided in § 25.25, except as provided in paragraph (a)(5) of this section.

(3) *Performance standards for small banks and savings associations.* The appropriate Federal financial supervisory agency applies the performance standards for small banks or savings associations as provided in § 25.26 in evaluating the performance of a small bank or savings association or a bank or savings association that was a small bank or savings association

during the prior calendar year, unless the bank or savings association elects, and receives approval if required, to be assessed as provided in paragraphs (a)(1), (2), or (5) of this section. The bank or savings association may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks or savings associations under § 25.42.

(4) *Performance standards for intermediate bank and savings association*. The appropriate Federal financial supervisory agency applies the performance standards for intermediate banks or savings associations as provided in § 25.26 in evaluating the performance of an intermediate bank or savings association or a bank or savings association that was an intermediate bank or savings association during the prior calendar year, unless the bank or savings association elects, and receives approval if required, to be assessed as provided in paragraphs (a)(1), (2), or (5) of this section. The bank or savings association may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks or savings associations under § 25.42.

(5) *Strategic plan.* The appropriate Federal financial supervisory agency evaluates the performance of a bank or savings association under a strategic plan approved in accordance with § 25.27. The appropriate Federal financial supervisory agency evaluates the performance of a bank or savings association under a strategic plan at the end of the plan term based on the measurable goals specified in the plan, including any annual interim measurable goals.

(6) *Military banks and savings associations*—(i) *In general*. The appropriate Federal financial supervisory agency evaluates the performance of a military bank or savings association under the applicable performance tests or standards described in paragraphs (a)(1) through (5) of this section.

(ii) *Military banks and savings associations operating under § 25.41(f)*. If a military bank or savings association delineates the United States and its territories as its sole assessment area pursuant to § 25.41(f), the appropriate Federal financial supervisory agency evaluates the bank or savings association exclusively at the institution level based on its performance in its sole assessment area.

(iii) *Geographic components excluded*. Notwithstanding any requirement in subpart B of this part, a military bank or savings association is not evaluated under any component of a performance test or standard that evaluates performance based on geography (*e.g.*, the geographic distribution of a bank's lending activity).

(b) *Performance context.* The appropriate Federal financial supervisory agency applies the performance tests and standards in paragraph (a) of this section and also approves and evaluates a strategic plan in the context of data or information about—

(1) Assessment area demographics, including income levels, distribution of income, nature of housing stock, housing costs, and the economic environment (national, regional, and local);

(2) Lending, investment, grant, and service opportunities maintained by the bank or savings association or obtained from community organizations, State, local, and Tribal governments, economic development agencies, or other sources;

(3) The bank's or savings association's product offerings and business strategy (if provided by the bank or savings association);

(4) Institutional capacity and constraints, including the size and financial condition of the bank or savings association, safety and soundness limitations, and any other factors that significantly affect the bank's or savings association's ability to provide lending, investments, grants, or services in its assessment area(s);

(5) The bank's or savings association's past performance and the performance of similarly situated lenders;

(6) The bank's or savings association's public file, as described in § 25.43, and any written comments about the bank's or savings association's CRA performance submitted to the bank or savings association or the appropriate Federal financial supervisory agency;

(7) The bank's or savings association's community development activities and retail banking services, to the extent not considered under another performance test; and

(8) Anything else deemed relevant by the appropriate Federal financial supervisory agency.

(c) *Assigned ratings.* The appropriate Federal financial supervisory agency assigns to a bank or savings association one of the following four ratings pursuant to § 25.28 and appendix A to this part: "outstanding"; "satisfactory"; "needs to improve"; or "substantial noncompliance," as provided in 12 U.S.C. 2906. The rating assigned by the appropriate Federal financial supervisory agency reflects the bank's or savings association's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank or savings association.

(d) *Safe and sound operations.* This part and the CRA do not require a bank or savings association to provide loans, investments, grants, or services that are inconsistent with safe and sound operations. To the contrary, the appropriate Federal financial supervisory agency anticipates banks and savings associations can meet the standards of this part with safe and sound loans, investments, grants, and services on which the banks and savings associations expect to make a profit. Banks and savings associations are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income census tracts or individuals, only if consistent with safe and sound operations.

(e) *Activities in cooperation with minority- or women-owned financial institutions and low-income credit unions.* In assessing and taking into account the record of a nonminority-owned and nonwomen-owned bank or savings association under this part, the appropriate Federal financial supervisory agency considers as a factor capital investment, loan participation, and other ventures undertaken by the bank or savings association in cooperation with minority- and women-owned financial institutions and low-income credit unions. Such activities must help meet the credit needs of local communities in which the minority- and women-owned financial institutions and low-income credit unions are chartered. To be considered, such activities need not also benefit the bank's or savings association's assessment area(s).

(f) *Treatment of community development loans, community development investments, and community development grants*. A community development loan, community development investment, or community development grant will be considered in assessing a bank's or savings association's CRA performance in the evaluation period it was originated, made, or purchased by the bank or savings association, and, for community development loans and community development investments, in any subsequent evaluation period for which the community development loan or community development investment remains on the bank's or savings association's balance sheet at the end of the evaluation period.

[OPTION 1 FOR PARAGRAPH (g)]

(g) *Major product line.* The appropriate Federal financial supervisory agency assesses a bank's or savings association's performance with respect to retail lending (*i.e.*, home mortgage, small business, small farm, and consumer originations and purchases) based on its major product line(s). A bank's or savings association's major product line(s) are—

(1)(i) The largest two product lines by dollar volume and loan count, as provided in appendix C to this part of home mortgage, small business, small farm, and consumer lending, if the bank makes loans in at least two of these product lines; or

(ii) Home mortgage, small business, small farm, or consumer lending, in the product line in which the bank makes loans, if the bank makes loans in only one of these product lines.

(2) Notwithstanding paragraph (g)(1)(i) of this section, the appropriate Federal financial supervisory agency will only evaluate consumer lending if the bank's or savings association's consumer loans constitute more than 50 percent of its retail lending by dollar volume and loan count or at the bank's or savings association's option, and, if this standard is not met, the agency will evaluate the largest two product lines of home mortgage, small business, and small farm lending.

[OPTION 2 FOR PARAGRAPH (g)]

(g) *Major product line.* (1) The appropriate Federal financial supervisory agency assesses a bank's or savings association's retail lending in its major product line(s) in each assessment area. Whether home mortgage, small business, small farm, or consumer lending is a major product line in an assessment area will be based on the—

(i) Bank's or savings association's overall lending volume and business strategy;

(ii) Bank's or savings association's capacity to lend in that assessment area; and

(iii) Extent to which lending in the product line meaningfully contributes to the bank's or savings association's record of meeting the credit needs of that assessment area.

(2) Notwithstanding paragraph (g)(1) of this section, the appropriate Federal financial supervisory agency will only evaluate consumer lending if the bank's or savings association's consumer loans constitute more than 50 percent of its retail lending by dollar volume and loan count, or at the bank's or saving's association's option.

(h) *Meaningful assessment*. (1) *In general.* In assessing a bank's or savings association's retail lending performance in a performance criterion under the applicable performance test or standard, the appropriate Federal financial supervisory agency considers a bank's retail lending activities pursuant to the performance criterion for which the bank may conduct a meaningful assessment, as provided in paragraph (h)(2) of this section.

(2) *Meaningful assessment standards.* The appropriate Federal financial supervisory agency—

(i) Will consider 30 loans to be a sufficient number of loans to perform a meaningful assessment; and

(ii) May consider less than 30 loans if the agency determines that a smaller number would allow for a meaningful assessment.

(3) *Other assessments of retail lending performance.* When a meaningful assessment of the bank's or savings association's loan data cannot be performed, the appropriate Federal financial

supervisory agency will assess the bank’s or savings association’s lending performance based on other lending performance criteria for which a meaningful assessment may be conducted or consideration of applicable performance context factors described in paragraph (b) of this section that inform the bank’s or savings association’s lending activity in the assessment area.

§ 25.22 Lending test.

(a) *Scope of test.* (1) The appropriate Federal financial supervisory agency evaluates a bank’s or savings association’s record of meeting community credit needs by assessing the bank’s or savings association’s major product lines and community development loans, as provided in this part.

(2) A bank or savings association may ask the appropriate Federal financial supervisory agency to consider loans originated or purchased by consortia in which the bank or savings association participates or by third parties in which the bank or savings association has invested only if the loans meet the definition of community development loans and only in accordance with paragraph (d) of this section. The appropriate Federal financial supervisory agency will only consider these loans under the community development lending criterion in paragraph (b)(4) of this section.

(b) *Performance criteria.* The appropriate Federal financial supervisory agency evaluates a bank’s or savings association’s lending performance pursuant to the following criteria—

(1) *Lending activity.* The number and dollar amount of the bank’s or savings association’s loans in its major product lines in the bank’s or savings association’s assessment area(s);

(2) *Geographic distribution.* The geographic distribution of the bank’s or savings association’s loans in its major product line(s), based on the loan location, including—

(i) The proportion of the bank’s or savings association’s lending in the bank’s or savings association’s assessment area(s);

(ii) The dispersion of lending in the bank’s or savings association’s assessment area(s); and

(iii) The number and dollar amount of loans in low-, moderate-, middle-, and upper-income census tracts in the bank's or savings association's assessment area(s);

(3) *Borrower characteristics.* The distribution of the bank's or savings association's loans in its major product lines, based on borrower characteristics, including, if applicable, the number and dollar amount of—

(i) Home mortgage loans to low-, moderate-, middle-, and upper-income individuals in the bank's or savings association's assessment area(s);

(ii) Small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less in the bank's or savings association's assessment area(s);

(iii) Small business and small farm loans by dollar amount at origination in the bank's or savings association's assessment area(s); and

(iv) Consumer loans to low-, moderate-, middle-, and upper-income individuals in the bank's or savings association's assessment area(s);

(4) *Community development lending.* The bank's or savings association's community development loans, including the number and dollar amount of community development loans; and

(5) *Responsiveness*. The responsiveness of the bank's or savings association's retail loans and community development loans in meeting community credit needs.

(c) *Affiliate lending.* (1) At a bank's or savings association's option, the appropriate Federal financial supervisory agency will consider loans by an affiliate of the bank or savings association, if the bank or savings association provides data on the affiliate's loans pursuant to § 25.42.

(2) The appropriate Federal financial supervisory agency considers affiliate lending subject to the following constraints—

(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase; and

(ii) If a bank or savings association elects to have the appropriate Federal financial supervisory agency consider loans within a major product line made by one or more of the bank's or savings association's affiliates in a particular assessment area, the appropriate Federal financial supervisory agency will consider all the loans within that major product line in that particular assessment area made by all of the bank's or savings association's affiliates.

(3) The appropriate Federal financial supervisory agency does not consider affiliate lending in assessing a bank's or savings association's performance under paragraph (b)(2)(i) of this section.

(d) *Lending by a consortium or a third party.* Community development loans originated or purchased by a consortium in which the bank or savings association participates or by a third party in which the bank or savings association has invested—

(1) Will be considered, at the bank's or savings association's option, if the bank or savings association reports the data pertaining to these loans under § 25.42(b)(2); and

(2) May be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor—

(i) May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase; or

(ii) May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

(e) *Lending performance rating.* The appropriate Federal financial supervisory agency rates a bank's or savings association's lending performance as provided in appendix A to this part.

§ 25.23 Investment test.

(a) *Scope of test.* The appropriate Federal financial supervisory agency evaluates a bank's or savings association's record of meeting community credit needs by assessing the bank's or savings association's community development investments and community development grants, as provided in this part.

(b) *Exclusion.* Activities considered under the lending or service tests may not be considered under the investment test.

(c) *Affiliate investment.* At a bank's or savings association's option, the appropriate Federal financial supervisory agency will consider, in its assessment of a bank's or savings association's investment performance, a community development investment or community development grant made by an affiliate of the bank or savings association, if the community development investment or community development grant is not claimed by any other institution.

(d) *Disposition of branch premises.* Donating, selling on favorable terms, or making available on a rent-free basis a branch of the bank or savings association that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. 2907(b)) will be considered as a community development investment or community development grant.

(e) *Performance criteria.* The appropriate Federal financial supervisory agency evaluates the investment performance of a bank or savings association pursuant to the following criteria—

(1) The dollar amount of community development investments and community development grants; and

(2) The responsiveness of the bank's community development investments and community development grants, including their complexity, to community credit needs.

(f) *Investment performance rating.* The appropriate Federal financial supervisory agency rates a bank's or savings association's investment performance as provided in appendix A to this part.

§ 25.24 Service test.

(a) *Scope of test.* The appropriate Federal financial supervisory agency evaluates a bank's or savings association's record of meeting community credit needs under the service test by assessing the bank's or savings association's retail banking services and community development services, as provided in this part.

(b) *Affiliate service.* At a bank's or savings association's option, the appropriate Federal financial supervisory agency will consider, in its assessment of a bank's or savings association's service performance, a community development service provided by an affiliate of the bank or savings association, if the community development service is not claimed by any other institution.

(c) *Performance criteria—retail banking services.* The appropriate Federal financial supervisory agency evaluates the availability and effectiveness of a bank's or savings association's systems for delivering retail banking services, pursuant to the following criteria—

(1) The current distribution of the bank's or savings association's branches among low-, moderate-, middle-, and upper-income census tracts;

(2) In the context of its current distribution of the bank's or savings association's branches, the bank's or savings association's record of opening and closing branches, particularly branches located in low- or moderate-income census tracts or primarily serving low- or moderate-income individuals;

(3) The availability and effectiveness of alternative systems for delivering retail banking services (*e.g.*, ATMs, ATMs not owned or operated by or exclusively for the bank or savings association, interactive teller machines, banking by telephone, internet or mobile banking, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income census tracts and to low- and moderate-income individuals; and

(4) The range and responsiveness of the credit services provided in low-, moderate-, middle-, and upper-income census tracts, including the degree to which the services are tailored to meet the credit needs of those census tracts.

(d) *Performance criteria—community development services.* The appropriate Federal financial supervisory agency evaluates community development services pursuant to the following criteria—

(1) The extent to which the bank or savings association provides community development services; and

(2) The responsiveness of the bank's community development services, including their complexity, to community credit needs.

(e) *Service performance rating.* The appropriate Federal financial supervisory agency rates a bank's or savings association's service performance as provided in appendix A to this part.

§ 25.25 Community development test for wholesale or limited purpose banks and savings associations.

(a) *Scope of test.* The appropriate Federal financial supervisory agency evaluates a wholesale or limited purpose bank's or savings association's record of meeting community credit needs under the community development test by assessing its community development activities.

(b) *Designation as a wholesale or limited purpose bank or savings association.* (1) In order to receive a designation as a wholesale or limited purpose bank or savings association, a bank or savings association must file a request, in writing, with the appropriate Federal financial supervisory agency, at least 90 days prior to the proposed effective date of the designation. If the appropriate Federal financial supervisory agency approves the designation, it remains in effect until the bank or savings association requests revocation of the designation or until one year after the appropriate Federal financial supervisory agency notifies the bank or savings association that it has revoked the designation on its own initiative.

(2) Notwithstanding paragraph (b)(1) of this section, an institution that was designated as a wholesale or limited purpose bank or savings association pursuant to this part or was comparably designated pursuant to 12 CFR part 228 or 12 CFR part 345, as applicable, as of the date immediately prior to the date of a conversion may request that the appropriate Federal financial supervisory agency maintain its designation after the conversion. The appropriate Federal financial supervisory agency may approve the request to maintain the bank's or savings

association's designation in its sole discretion if the agency determines that it has the information necessary to make the determination.

(c) *Performance criteria.* The appropriate Federal financial supervisory agency evaluates the community development performance of a wholesale or limited purpose bank or savings association pursuant to the following criteria—

(1) The number and dollar amount of the bank's or savings association's community development activities; and

(2) The responsiveness of the bank's or savings association's community development activities, including their complexity, to community credit needs.

(d) *Indirect activities.* At a wholesale or limited purpose bank's or savings association's option, the appropriate Federal financial supervisory agency will consider in its community development performance assessment—

(1) Community development investments, community development grants, or community development services provided by an affiliate of the bank or savings association, if the investments, grants, or services are not claimed by any other institution; and

(2) Community development loans by affiliates, consortia, and third parties, subject to the requirements and limitations in § 25.22(c) and (d).

(e) [Reserved]

(f) *Community development performance rating.* The appropriate Federal financial supervisory agency rates a wholesale or limited purpose bank's or savings association's community development performance as provided in appendix A to this part.

§ 25.26 Performance standards for small banks and savings associations and intermediate banks and savings associations.

(a) *Performance criteria*—(1) *Small banks and savings associations.* The appropriate Federal financial supervisory agency evaluates the record of a small bank or savings association in meeting community credit needs pursuant to the criteria set forth in paragraphs (b) and (d) of this section.

(2) *Intermediate banks and savings associations.* The appropriate Federal financial supervisory agency evaluates the record of an intermediate bank or savings association in meeting community credit needs pursuant to the criteria set forth in paragraphs (b), (c), and (d) of this section.

(b) *Lending test.* A small bank's or savings association's or an intermediate bank's or savings association's record of meeting community credit needs by assessing a bank's or savings association's major product lines and other retail lending activities, as applicable, is evaluated pursuant to the following criteria—

(1) *Loan-to-deposit ratio.* The bank's or savings association's loan-to-deposit ratio, adjusted for seasonal variation;

(2) *Lending in assessment area(s).* The percentage of loans located in the bank's or savings association's assessment area(s);

(3) *Borrower distribution.* The bank's or savings association's record of lending to borrowers of different income levels and businesses and farms of different sizes in the bank's or savings association's assessment area(s); and

(4) *Geographic distribution.* The geographic distribution of the bank's or savings association's loans in the bank's or savings association's assessment area(s).

(c) *Community development test.* An intermediate bank's or savings association's community development performance also is evaluated pursuant to the following criteria—

(1) *Community development loans.* The number and dollar amount of community development loans;

(2) *Community development investments and community development grants.* The number and dollar amount of community development investments and community development grants; and

(3) *Community development services.* The extent to which the bank or savings association provides community development services.

(d) *Responsiveness.* The responsiveness of the small bank's or savings association's or intermediate bank's or savings association's lending activities and community development activities, including their complexity, to community credit needs.

(e) *Small bank or savings association or intermediate bank or savings association performance rating.* The appropriate Federal financial supervisory agency rates the performance of a bank or savings association evaluated under this section as provided in appendix A to this part.

§ 25.27 Strategic plan.

(a) *In general*—(1) *Evaluation.* The appropriate Federal financial supervisory agency will evaluate a bank's or savings association's record of meeting community credit needs under an approved strategic plan elected by the bank or savings association pursuant to paragraph (a)(2) of this section and as provided in paragraph (a)(2)(i) of this section.

(2) *Alternative election.* A bank or savings association may elect to have the appropriate Federal financial supervisory agency evaluate its performance under a strategic plan if the—

(i) Bank or savings association has submitted the strategic plan to the appropriate Federal financial supervisory agency for approval as provided for in this section;

(ii) Appropriate Federal financial supervisory agency has approved the strategic plan; and

(iii) Strategic plan is in effect.

(3) *Treatment of affiliates.* Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution, including interim annual goals, if applicable. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.

(4) *Confidential information.* A bank or savings association may submit additional information to the appropriate Federal financial supervisory agency on a confidential basis, but

the goals stated in the plan must be sufficiently specific to enable the public and the appropriate Federal financial supervisory agency to judge the merits of the plan.

(5) *Data collection, reporting, and disclosure.* A bank's or savings association's election to be evaluated under a strategic plan pursuant to paragraph (a)(2) of this section does not affect the applicability of the data collection, reporting, and disclosure provisions in § 25.42.

(b) *Content of a strategic plan.* (1) *Plan requirements*. In order for a plan to be considered technically complete, as provided in paragraph (f) of this section, a bank or savings association must include in its strategic plan—

(i) A general description of the bank or savings association, including discussion of its size, capital levels, branches, staffing levels, product lines, areas served, subsidiaries, affiliates, and its historical CRA performance;

(ii) The plan scope, as provided in paragraph (b)(2) of this section;

(iii) The plan term, as provided in paragraph (b)(3) of this section;

(iv) The assessment areas covered by the plan, as provided in paragraph (b)(4) of this section;

(v) Measurable goals, as provided in paragraph (b)(5) of this section, that meet the requirement for the provision of satisfactory and outstanding measurable goals, as provided in paragraph (b)(6) of this section;

(vi) Any performance context factors, as provided in § 25.21(a)(5) or (b), that the bank or savings association considered in tailoring the scope of the strategic plan; and

(vii) A description of informal and formal efforts to seek suggestions from members of the public, as provided in paragraph (c) of this section, and a copy of any written public comments received.

(2) *Plan scope.* The strategic plan scope must address all three performance categories (*i.e.*, lending, investments, and services) in its strategic plan by—

(i) Specifying one or more measurable goal(s) for a performance category, as provided in paragraph (b)(5) of this section;

(ii) Emphasizing lending and lending-related activities in the strategic plan, unless a different emphasis is responsive to the credit needs of the bank's or savings association's assessment area(s), considering public comment and the bank's or savings association's capacity and constraints, product offerings, and business strategy; and

(iii) Explaining, if applicable, how the exclusion of measurable goals for a performance category is supported by or consistent with the bank's or savings association's performance context.

(3) *Plan Term.* A strategic plan may have a term of no more than five years.

(4) *Assessment areas*—(i) A strategic plan must include a description of the bank's or savings association's assessment area(s) comprised of whole geographic areas (*e.g.*, an MSA, one or more metropolitan divisions, one or more contiguous counties, or one or more contiguous census tracts) that are covered by the strategic plan, delineated pursuant to § 25.41.

(ii) A bank or savings association with more than one assessment area may—

(A) Prepare a separate strategic plan for each assessment area; or

(B) Include multiple assessment areas in a single strategic plan.

(5) *Measurable goals*. In its strategic plan, a bank or savings association must specify measurable goal(s) for meeting the credit needs of each assessment area covered by the plan, including the needs of low- and moderate-income census tracts and low- and moderate-income individuals. A multi-year strategic plan must include annual interim measurable goals for each year in the plan term. A bank or savings association may also include measurable goals that span the entire plan term, which may differ from the aggregate of the bank's or savings association's annual interim measurable goals.

(i) *Measurable goal requirements.* A measurable goal must have a—

(A) Performance measure (*e.g.*, percentage, number, dollar amount, or other quantifiable measure of a particular type of lending, investment, grant, or service); and

(B) Performance level (*i.e.*, the specific value for a performance measure, such as a set percentage of lending by dollar amount or number).

(ii) *Measurable goal rationale or support.* The strategic plan must provide the bank's or savings association's rationale and support for the specified measurable goal(s).

(6) *Satisfactory and outstanding measurable goals*—(i) *Satisfactory measurable goals*. A bank or savings association must specify in its strategic plan measurable goals that constitute "satisfactory" performance.

(ii) *Outstanding measurable goals*. A bank or savings association may specify in its strategic plan measurable goals that constitute "outstanding" performance.

(c) *Public participation in plan development.* Before submitting a proposed strategic plan to the appropriate Federal financial supervisory agency for approval under paragraph (e) of this section, a bank or savings association must—

(1) Informally seek suggestions from members of the public in assessment area(s) covered by the plan to inform the development of a draft strategic plan;

(2) Formally solicit public comment on the draft strategic plan for at least 30 calendar days by—

(i) Publishing notice of the opportunity to comment on the bank's or savings association's draft strategic plan in at least one newspaper of general circulation in each assessment area covered by the plan;

(ii) Making the draft strategic plan available to the public at no cost (reasonable fees may be charged to cover copying and mailing, if applicable); and

(iii) Providing the draft strategic plan to the appropriate Federal financial supervisory agency, which will publish the plan on its public website and direct the public to send comments to the bank or savings association for consideration.

(3) The comment period will last at least 30 calendar days from the date of the latest publication under paragraph (c)(2) of this section.

(d) *Prefiling communications.* A bank or savings association may consult with the appropriate Federal financial supervisory agency regarding its draft strategic plan prior to submitting the plan for approval under paragraph (e) of this section. The appropriate Federal financial supervisory agency will provide the bank or savings association with preliminary feedback regarding the draft strategic plan, including whether the level of detail in the draft strategic plan is sufficient for the agency to evaluate the plan and the merits of the measurable goals in the draft strategic plan.

(e) *Submission of plan*—(1) Unless otherwise permitted by the appropriate Federal financial supervisory agency, the bank or savings association must submit its proposed strategic plan to the appropriate Federal financial supervisory agency at least 90 calendar days prior to the proposed effective date of the plan.

(2) At the request of a bank or savings association, the appropriate Federal financial supervisory agency, in its discretion, may accept and review a proposed strategic plan submitted less than 90 calendar days prior to the proposed effective date of the plan.

(f) *Plan approval*—(1) *Notice of complete plan*—(i) The appropriate Federal financial supervisory agency will notify the bank or savings association in writing when the agency determines that it has received a technically complete proposed strategic plan containing the information required in paragraph (b) of this section.

(ii) If the appropriate Federal financial supervisory agency determines it has not received a technically complete proposed strategic plan from the bank or savings association, the appropriate Federal financial supervisory agency will send a written communication within 14 calendar days of submission identifying the missing components of the plan.

(iii) Notwithstanding a notification in writing that a proposed strategic plan is technically complete, the appropriate Federal financial supervisory agency may request additional information based on a material change in circumstances underlying the proposed plan.

(2) *Review period.* The appropriate Federal financial supervisory agency will act upon a proposed strategic plan within 60 calendar days after the date of the technically complete notice, unless the agency extends the review period for good cause. If the appropriate Federal financial supervisory agency—

(i) Does not act within the review period, the plan will be deemed approved at the end of the review period.

(ii) Approves a proposed strategic plan after the plan's proposed effective date, the plan will be effective on the date of approval.

(3) *Criteria for evaluating a proposed strategic plan.* The appropriate Federal financial supervisory agency evaluates a proposed strategic plan's measurable goals using the following criteria, as appropriate—

(i) The extent and breadth of lending, including, as appropriate, the distribution of loans among different census tracts, businesses and farms of different sizes, and individuals of different income levels;

(ii) The extent of community development lending, and the responsiveness of lending practices to community credit needs;

(iii) The responsiveness, including complexity, of the bank's or savings association's community development investments and community development grants to community credit needs;

(iv) The availability and effectiveness of the bank's or savings association's systems for delivering retail banking services and the responsiveness, including complexity, of the bank's or savings association's community development services; and

(v) Consideration of performance context as provided in § 25.21(b).

(4) *Publication of approved plan*. The appropriate Federal financial supervisory agency will publish an approved strategic plan on its website, excluding the confidential information described in paragraph (a)(4) of this section.

(g) *Plan denial*—(1) *Reasons*. The appropriate Federal financial supervisory agency may deny a bank's or savings association's request to be evaluated under a strategic plan for any of the following reasons—

(i) The proposed strategic plan's measurable goals do not adequately address the credit needs of the assessment area(s) covered by the plan as evaluated under the criteria described in paragraph (f)(3) of this section;

(ii) The proposed strategic plan's measurable goals are not consistent with the safe and sound operations of the bank or savings association;

(iii) The bank or savings association did not comply with the public participation process described in paragraph (c) of this section;

(iv) The proposed strategic plan otherwise fails to meet the requirements of this section; or

(v) The bank or savings association fails to provide information to the appropriate Federal financial supervisory agency necessary to reach an informed decision on the plan.

(2) *Resubmission*. After denial of a proposed strategic plan, the bank or savings association may resubmit an updated plan that addresses the basis of the denial to the appropriate Federal financial supervisory agency. Unless the appropriate Federal financial supervisory agency determines otherwise in writing, the same review process, including the review period described in paragraph (f)(2) of this section, will apply to resubmission of a proposed strategic plan.

(h) *Plan amendment.* During the term of a plan—

(1) A bank or savings association may request the appropriate Federal financial supervisory agency review an amendment to an approved strategic plan based on a material change in circumstances. A material change in circumstances may include a merger or consolidation, a change in the bank's or savings association's assessment area(s), a change in the bank's or savings association's business strategy, or a change in institutional capacity or constraints that serve as an impediment to the bank's or savings association's ability to achieve a satisfactory level of performance.

(2) The appropriate Federal financial supervisory agency may require, in its sole discretion, the bank or savings association to develop an amendment to an approved strategic plan in accordance with any of the process requirements of this section, based on the extent of the amendments to the plan.

(i) *Plan assessment*—(1) In evaluating a bank's or savings association's performance under an approved strategic plan, the appropriate Federal financial supervisory agency considers performance context as provided in § 25.21(b) and assesses performance as provided in appendix A to this part.

(2) The appropriate Federal financial supervisory agency will evaluate a bank's or savings association's performance under an approved strategic plan based on the entire plan term at the end of the plan. This evaluation will include consideration of the bank's or savings association's performance on its annual interim measurable goals as well as any measurable goal for the entire plan term.

(3) If a bank's or savings association's strategic plan includes both satisfactory and outstanding measurable goals—

(i) The appropriate Federal financial supervisory agency will consider the bank or savings association eligible for an "outstanding" rating; and

(ii) If the bank or savings association fails to achieve one or more of its outstanding measurable goals, the appropriate Federal financial supervisory agency will consider community development activities conducted by the bank or savings association that were not assessed in connection with any measurable goal in determining whether to consider the measurable goals to be substantially met for purposes of eligibility for an "outstanding" rating.

(j) *Converting institutions*. For institutions that have engaged in a conversion (*e.g.*, from a State bank to a national bank or vice versa; from a Federal savings association to a State savings association or vice versa) while operating under an approved strategic plan, the appropriate Federal financial supervisory agency will assess performance under a strategic plan approved by another agency if the appropriate Federal financial supervisory agency determines the approval was consistent with the requirements of this section and no amendments are necessary pursuant to paragraph (h)(2) of this section.

(k) *Use of standard performance tests if satisfactory goals not substantially met*. If a bank or savings association fails to substantially meet its plan goals for a "satisfactory" rating, the appropriate Federal financial supervisory agency will evaluate the bank's or savings association's performance under the otherwise applicable performance tests or standards, as appropriate.

§ 25.28 Assigned ratings.

(a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, the appropriate Federal financial supervisory agency assigns to a bank or savings association a rating of "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance" based on the bank's or savings association's performance under the lending, investment and service tests; the community development test for wholesale or limited purpose banks and savings associations; the small bank or savings association or the intermediate bank or savings association performance standards; or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests.* The appropriate Federal financial supervisory agency assigns a rating for a bank or savings association assessed under the lending, investment, and service tests in accordance with the following principles—

(1) A bank or savings association that receives an "outstanding" rating on the lending test receives an assigned rating of at least "satisfactory";

(2) A bank or savings association that receives an "outstanding" rating on both the service test and the investment test and a rating of at least "high satisfactory" on the lending test receives an assigned rating of "outstanding"; and

(3) No bank or savings association may receive an assigned rating of "satisfactory" or higher unless it receives a rating of at least "low satisfactory" on the lending test.

(c) *Effect of evidence of discriminatory or other illegal credit practices.* (1) The appropriate Federal financial supervisory agency's evaluation of a bank's or a savings association's CRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any census tract by the bank or savings association or in any assessment area by any affiliate whose loans have been considered as part of the bank's or savings association's lending performance. In connection with any type of lending activity described in § 25.22(a), evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes—

(i) Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act or the Fair Housing Act;

(ii) Violations of the Home Ownership and Equity Protection Act;

(iii) Violations of section 5 of the Federal Trade Commission Act;

(iv) Violations of section 8 of the Real Estate Settlement Procedures Act;

(v) Violations of the Truth in Lending Act provisions regarding a consumer's right of rescission;

(vi) Violations of section 1031 of the Dodd-Frank Wall Street Reform and Consumer Protection Act;

(vii) Violations of the Military Lending Act; and

(viii) Violations of the Servicemembers Civil Relief Act.

[OPTION A FOR PARAGRAPH (c)(2)]

(2) The evidence of discriminatory and other illegal credit practices described in paragraph (c)(1) of this section must be a violation of a law, rule, or regulation cited in a public enforcement action taken by a Federal or State agency or judicial order to which a Federal or State agency is a party.

[OPTION B FOR PARAGRAPH (c)(2)]

(2) The evidence of discriminatory and other illegal credit practices described in paragraph (c)(1) of this section must be a violation of a Federal or State law, rule, or regulation cited by a Federal or State agency or in a judicial order to which a Federal or State agency is a party. If the citation is confidential supervisory information, the agencies will not disclose such information in the public section of the CRA Performance Evaluation.

(3) In determining the effect of evidence of practices described in paragraph (c)(1) of this section on the bank's or savings association's assigned ratings, the appropriate Federal financial supervisory agency considers—

(i) The policies and procedures that the bank or savings association (or affiliate, as applicable) has in place to prevent the practices;

(ii) Any corrective action that the bank or savings association (or affiliate, as applicable) has taken or has committed to take, including voluntary corrective action resulting from self-assessment; and

(iii) Any other relevant information.

§ 25.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the appropriate Federal financial supervisory agency takes into account the record of performance under the CRA of each applicant bank or savings association, and for applications under 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)), of each proposed subsidiary savings association, in considering an application for—

(1) The establishment of—

(i) A domestic branch for insured national banks; or

(ii) A domestic branch or other facility that would be authorized to take deposits for savings associations;

(2) The relocation of the main office, home office, or a branch;

(3) The merger or consolidation with or the acquisition of assets or assumption of liabilities of an insured depository institution requiring approval under the Bank Merger Act (12 U.S.C. 1828(c));

(4) The conversion of an insured depository institution to a national bank or Federal savings association charter; and

(5) Acquisitions subject to section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)).

(b) *Charter application.* (1) An applicant (other than an insured depository institution) for a national bank charter must submit with its application a description of how it will meet its CRA objectives. The OCC takes the description into account in considering the application and may deny or condition approval on that basis.

(2) An applicant for a Federal savings association charter must submit with its application a description of how it will meet its CRA objectives. The appropriate Federal financial supervisory agency takes the description into account in considering the application and may deny or condition approval on that basis.

(c) *Interested parties.* The appropriate Federal financial supervisory agency takes into account any views expressed by interested parties that are submitted in accordance with the applicable comment procedures in considering CRA performance in an application listed in paragraphs (a) and (b) of this section.

(d) *Denial or conditional approval of application.* A bank's or savings association's record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

(e) *Insured depository institution.* For purposes of this section, the term "insured depository institution" has the meaning given to that term in 12 U.S.C. 1813.

Subpart C—Records, Reporting, and Disclosure Requirements

§ 25.41 Assessment area delineation.

(a) *In general.* A bank or savings association must delineate one or more assessment areas within which the appropriate Federal financial supervisory agency evaluates the bank's or savings association's record of meeting the credit needs of its community. The appropriate Federal financial supervisory agency does not evaluate the bank's or savings association's delineation of its assessment area(s) as a separate performance criterion, but the appropriate Federal financial supervisory agency reviews the delineation for compliance with the requirements of this section.

(b) *Geographic area(s) for wholesale or limited purpose banks or savings associations.* The assessment area(s) for a wholesale or limited purpose bank or savings association must consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank or savings association has its main office or home office, as applicable; staffed, non-temporary branches that are available and accessible to the public; and deposit-taking ATMs that are available and accessible to the public.

(c) *Geographic area(s) for other banks and savings association.* The assessment area(s) for a bank or savings association other than a wholesale or limited purpose bank or savings association must—

(1) Consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns; and

(2) Include the census tracts in which the bank or savings association has its main office or home office, as applicable; staffed, non-temporary branches that are available and accessible to the public; and deposit-taking ATMs that are available and accessible to the public, and the

surrounding census tracts in which the bank or savings association has originated or purchased a substantial portion of its loans in its major product lines.

(d) *Adjustments to geographic area(s).* A bank or savings association may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. 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.

(e) *Limitations on the delineation of an assessment area.* Each bank's or savings association's assessment area(s)—

(1) Must consist only of whole census tracts;

(2) May not reflect illegal discrimination;

(3) May not arbitrarily exclude low- or moderate-income census tracts, taking into account the bank's or savings association's size and financial condition; and

(4) May not extend substantially beyond an MSA boundary or beyond a State boundary unless the assessment area is located in a multistate MSA. If a bank or savings association serves a geographic area that extends substantially beyond a State boundary, the bank or savings association must delineate separate assessment areas for the areas in each State. If a bank or savings association serves a geographic area that extends substantially beyond an MSA boundary, the bank or savings association must delineate separate assessment areas for the areas inside and outside the MSA.

(f) *Military banks and savings associations.* Notwithstanding the requirements of this section, a military bank or savings association may delineate the entire United States and its territories as its sole assessment area.

(g) *Use of assessment area(s).* The appropriate Federal financial supervisory agency uses the assessment area(s) delineated by a bank or savings association in its evaluation of the bank's or savings association's CRA performance unless the appropriate Federal financial supervisory agency determines that the assessment area(s) do not comply with the requirements of this section.

§ 25.42 Data collection, reporting, and disclosure.

(a) *Information required to be collected and maintained.* (1) A large bank or savings association must collect, and maintain in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) until the completion of its next CRA examination, the following data for each small business or small farm loan originated or purchased by the bank or savings association—

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The dollar amount at origination;

(iii) The loan location; and

(iv) An indicator whether the loan was to a business or farm with gross annual revenues of $1 million or less.

(2) A large bank or savings association must collect, and maintain in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) for each calendar year until the completion of its next CRA examination, the following data for each community development loan originated or purchased or community development investment or community development grant made by the bank or savings association—

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan, investment, or grant;

(ii) The name of the recipient;

(iii) The dollar amount of the loan, investment, or grant;

(iv) The address of the recipient;

(v) The community development activity location;

(vi) An indicator whether the loan or investment involves complexity;

(vii) An indicator of the loan, investment, or grant's community development purpose; and

(viii) An indicator whether the activity is a loan, investment, or grant.

(3) A large bank or savings association must collect and maintain until the completion of its next CRA examination, the following data for each community development grant made by the bank or savings association—

(i) The recipient's written commitment to use the funds for specific projects, programs, or initiatives, in the bank's assessment area(s);

(ii) The recipient's written attestation that the recipient's indirect costs for administering the grant or donation will not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR Part 200, or a comparable standard; and

(iii) Documentation provided by the recipient supporting the attestation under paragraph (a)(3)(ii) of this section, including IRS Form 990 (Return for Tax Exempt Organizations) with annual operating and program budgets.

(4) A large bank or savings association that has consumer lending as a major product line pursuant to § 25.21(g) must collect and maintain in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) until the completion of its next CRA examination data, the following data for each consumer loan originated or purchased by the bank or savings association—

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The dollar amount at origination or purchase;

(iii) The loan location; and

(iv) The gross annual income of the borrower that the bank or savings association considered in making its credit decision.

(b) *Information required to be reported.* A large bank or savings association must report annually by March 1 to the appropriate Federal financial supervisory agency in machine-readable form (as prescribed by the appropriate Federal financial supervisory agency) the following data for the prior calendar year—

(1) *Small business and small farm loan data.* For each census tract in which the bank or savings association originated or purchased a small business or small farm loan, the aggregate number and dollar amount of loans—

(i) With a dollar amount at origination of $100,000 or less;

(ii) With a dollar amount at origination of more than $100,000 but less than or equal to $250,000;

(iii) With a dollar amount at origination of more than $250,000; and

(iv) To businesses and farms with gross annual revenues of $1 million or less (using the revenues that the bank or savings association considered in making its credit decision);

(2) *Community development data.* (i) The aggregate number and aggregate dollar amount of community development loans originated or purchased; and

(ii) For each community development grant the—

(A) Recipient of the grant;

(B) Recipient's street address; and

(C) Dollar amount of the grant.

(3) *Home mortgage loans.* If the bank or savings association is subject to reporting under part 1003 of this title, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank or savings association has a home or branch office (or outside any MSA) in accordance with the requirements of part 1003 of this title.

(c) *Other loan data.* At its option, a bank or savings association may provide other information concerning its lending performance, including additional loan distribution data.

(d) *Data on affiliate lending.* A bank or savings association that elects to have the appropriate Federal financial supervisory agency consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, must collect, maintain, and report for those loans the data that the bank or savings association would have collected, maintained, and reported pursuant to paragraphs (a), (b), and (c) of this section had the loans been originated or purchased by the bank or savings association. For home mortgage loans, the bank or savings association must also be prepared to identify the home mortgage loans reported under part 1003 of this title by the affiliate.

(e) *Data on lending by a consortium or a third party.* A bank or savings association that elects to have the appropriate Federal financial supervisory agency consider community development loans originated or purchased by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan, must report for those loans the data that the bank or savings association would have reported under paragraph (b)(2) of this section had the loans been originated or purchased by the bank or savings association.

(f) *Small banks and savings associations and intermediate banks and savings associations electing evaluation under the lending, investment, and service tests.* A bank or savings association that qualifies for evaluation under the small bank or savings association or the intermediate bank or savings association performance standards but elects evaluation under the lending, investment, and service tests in §§ 25.22 through 25.24 must collect, maintain, and report the data required for other banks or savings association pursuant to paragraphs (a) and (b) of this section.

(g) *Assessment area data.* A large bank or savings association must collect and report to the appropriate Federal financial supervisory agency by March 1 of each year a list for each assessment area showing the geographies within the area.

(h) *Determination to not require data based on specific circumstances.* Based on a bank's or savings association's particular facts and circumstances, upon written request the appropriate Federal financial supervisory agency may exempt a bank or savings association from one or more of the requirements to collect, maintain, or report data under paragraphs (a) through (f) of this section if the appropriate Federal financial supervisory agency determines that the data are not necessary for evaluating the bank's or savings association's performance or more than minimally useful to the agencies' overall data collection.

(i) *CRA Disclosure Statement.* The appropriate Federal financial supervisory agency prepares annually for each bank or savings association that reports data pursuant to this section a CRA Disclosure Statement that contains, on a State-by-State basis—

(1) For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the bank or savings association reported a small business or small farm loan—

(i) The number and dollar amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income census tracts;

(ii) A list grouping each census tract according to whether the census tract is low-, moderate-, middle-, or upper-income;

(iii) A list showing each census tract in which the bank or savings association reported a small business or small farm loan; and

(iv) The number and dollar amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(2) For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 persons in which the bank or savings association reported a small business or small farm loan—

(i) The number and dollar amount of small business and small farm loans reported as originated or purchased located in census tracts with median income relative to the area median income of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(ii) A list grouping each census tract in the county or assessment area according to whether the median income in the census tract relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(iii) A list showing each census tract in which the bank or savings association reported a small business or small farm loan; and

(iv) The number and dollar amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(3) The number and dollar amount of small business and small farm loans located inside each assessment area reported by the bank or savings association and the number and dollar amount of small business and small farm loans located outside the assessment area(s) reported by the bank or savings association; and

(4) The number and dollar amount of community development loans reported as originated or purchased.

(j) *Aggregate disclosure statements.* The OCC, in conjunction with the Board of Governors of the Federal Reserve System and the FDIC, prepares annually, for each MSA or metropolitan division (including an MSA or metropolitan division that crosses a State boundary) and the nonmetropolitan portion of each State, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting under this part or parts 228 or 345 of this title. These disclosure statements indicate, for each census tract, the number and dollar amount of all small business and small farm loans originated or purchased by reporting institutions, except that the appropriate Federal financial supervisory agency may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

(k) *Central data depositories.* The appropriate Federal financial supervisory agency makes the aggregate disclosure statements, described in paragraph (j) of this section, and the individual bank or savings association CRA Disclosure Statements, described in paragraph (i) of this section, available to the public at central data depositories. The appropriate Federal financial supervisory agency publishes a list of the depositories at which the statements are available.

§ 25.43 Content and availability of public file.

(a) *Information available to the public.* A bank or savings association must maintain a public file that includes the following information—

(1) All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's or savings association's performance in meeting community credit needs, and any response to the comments by the bank or savings association, if neither the comments nor the responses contain statements that reflect adversely on the character or integrity of any persons other than the bank or savings association or publication of which would violate specific provisions of law;

(2) A copy of the public section of the bank's or savings association's most recent CRA Performance Evaluation prepared by the appropriate Federal financial supervisory agency. The bank or savings association must include this copy in the public file within 60 business days after its receipt from the appropriate Federal financial supervisory agency, unless the timing is otherwise extended by the appropriate Federal financial supervisory agency;

(3) A list of the bank's or savings association's branches, their street addresses, and census tracts;

(4) A list of branches opened or closed by the bank or savings association during the current year and each of the prior two calendar years, their street addresses, and census tracts;

(5) A list of services (including hours of operation, available credit products, and transaction fees) generally offered at the bank's or savings association's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank or savings association may include information regarding the availability of alternative systems for delivering retail banking services (*e.g.*, ATMs, ATMs not owned or operated by or exclusively for the bank or savings association, interactive teller machines, banking by telephone, internet or mobile banking, loan production offices, and bank-at-work or bank-by-mail programs);

(6) A map of each assessment area showing the boundaries of the area and identifying the census tracts contained within the area, either on the map or in a separate list; and

(7) Any other information the bank or savings association chooses.

(b) *Additional information available to the public*—(1) *Large banks or savings associations.* A bank or savings association, except a small bank or savings association or an intermediate bank or savings association (or a bank or savings association that was a small bank or savings association or an intermediate bank or savings association during the prior calendar year), must include in its public file the following information pertaining to the bank or savings association and its affiliates, if applicable, for each of the prior two calendar years—

(i) If the bank or savings association has consumer loans considered under the lending test as a major product line, for each category of its consumer loans, the number and dollar amount of loans—

(A) To low-, moderate-, middle-, and upper-income individuals;

(B) Located in low-, moderate-, middle-, and upper-income census tracts; and

(C) Located inside the bank's or savings association's assessment area(s) and outside the bank's or savings association's assessment area(s); and

(ii) The bank or savings association must include the statement in the public file within three business days of its receipt from the appropriate Federal financial supervisory agency. The bank or savings association must also indicate that the bank's or savings association's CRA Disclosure Statement is available on the Federal Financial Institutions Examination Council's website.

(2) *Banks and savings associations required to report Home Mortgage Disclosure Act (HMDA) data.* A bank or savings association required to report home mortgage loan data pursuant to part 1003 of this title must include in its public file a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) website at *www.consumerfinance.gov/hmda.* In addition, a bank or savings association that elected to have the appropriate Federal financial supervisory agency consider the mortgage lending of an affiliate must include in its public file the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's website. The bank or savings association must include the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

(3) *Small banks and savings associations and intermediate banks and savings associations.* A small bank or savings association or an intermediate bank or savings association (or a bank or savings association that was a small bank or savings association or an intermediate bank or savings association during the prior calendar year) must include in its public file—

(i) The bank's or savings association's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and

(ii) The information required for other banks or savings associations by paragraph (b)(1) of this section, if the bank or savings association has elected to be evaluated under the lending, investment, and service tests.

(4) *Banks and savings associations with strategic plans.* A bank or savings association that has been approved to be assessed under a strategic plan must include in its public file a copy of that plan. A bank or savings association need not include information submitted to the

appropriate Federal financial supervisory agency on a confidential basis in conjunction with the plan.

(5) *Banks and savings associations with less than satisfactory ratings.* A bank or savings association that received a less than satisfactory rating during its most recent examination must include in its public file a description of its current efforts to improve its performance in meeting the credit needs of its entire community. The bank or savings association must update the description quarterly.

(c) *Location of public information.* A bank or savings association must make available to the public for inspection, at no cost, the information required in this section on the bank's or savings association's website, or a website maintained on behalf of the bank or savings association.

(d) *Copies.* Upon request, a bank or savings association must provide copies, either on paper or in digital form acceptable to the person making the request, of the information in its public file. The bank or savings association may charge a reasonable fee not to exceed the cost of copying and mailing (if not provided in digital form).

(e) *Updating.* Except as otherwise provided in this section, a bank or savings association must ensure that the information required by this section is current as of April 1 of each year.

§ 25.44 Public notice by banks and savings associations.

(a) *CRA notice*. A bank or savings association must provide on the bank's or savings association's website, or a website maintained on behalf of the bank or savings association, the appropriate CRA notice set forth in appendix B to this part. As provided in paragraphs (b) and (c) of appendix B to this part and where indicated by the bracketed text, a bank or savings association must insert the—

(1) Sentences in paragraph (b) of appendix B to this part, as applicable.

(2) Paragraph in paragraph (c) of appendix B to this part, if the bank has branches.

(b) *Public disclosure of the CRA notice*. In the public lobby of its main office or home office, as applicable and each of its staffed, non-temporary branches that are available and accessible to the public, a bank or savings association must display a written notice, in printed or digital form, that provides that the institution's CRA notice may be viewed on the bank's or savings association's website, or a website maintained on behalf of the bank or savings association.

§ 25.45 Publication of planned examination schedule.

The appropriate Federal financial supervisory agency publishes at least 30 days in advance of the beginning of each calendar quarter a list of banks and savings associations scheduled for CRA examinations in that quarter.

Subpart E [Reserved]

Appendix A to Part 25—Ratings

(a) *Ratings in general.* (1) The appropriate Federal financial supervisory agency evaluates a bank's or savings association's performance and assigns a rating for each State and multistate MSA as provided in 12 U.S.C. 2906(d) and for the bank under the applicable performance tests or standards in this part, in accordance with §§ 25.21 and 25.28.

(2) A bank's or savings association's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's or savings association's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Banks and savings associations evaluated under the lending, investment, and service tests*—(1) *Lending performance rating.* The appropriate Federal financial supervisory agency assigns each bank's or savings association's lending performance one of the five following ratings based on its major product lines and community development loans, as applicable.

(i) *Outstanding.* The appropriate Federal financial supervisory agency rates a bank's or savings association's lending performance "outstanding" if, in general, it demonstrates—

(A) An excellent record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A substantial majority of its loans in major product lines are made in its assessment area(s);

(C) An excellent geographic distribution of loans in major product lines in its assessment area(s);

(D) An excellent distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Extensive use of responsive lending practices, including loans in major product lines and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It is a leader in making community development loans.

(ii) *High satisfactory.* The appropriate Federal financial supervisory agency rates a bank's or savings association's lending performance "high satisfactory" if, in general, it demonstrates—

(A) A good record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A high percentage of its loans in major product lines are made in its assessment area(s);

(C) A good geographic distribution of loans in major product lines in its assessment area(s);

(D) A good distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Use of responsive lending practices, including loans in major product lines and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made a relatively high level of community development loans.

(iii) *Low satisfactory.* The appropriate Federal financial supervisory agency rates a bank's or savings association's lending performance "low satisfactory" if, in general, it demonstrates—

(A) An adequate record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) An adequate percentage of its loans in major product lines are made in its assessment area(s);

(C) An adequate geographic distribution of loans in major product lines in its assessment area(s);

(D) An adequate distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Limited use of responsive lending practices, including loans in major product lines and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made an adequate level of community development loans.

(iv) *Needs to improve.* The appropriate Federal financial supervisory agency rates a bank's or savings association's lending performance "needs to improve" if, in general, it demonstrates—

(A) A poor record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A small percentage of its loans in major product lines are made in its assessment area(s);

(C) A poor geographic distribution of loans in major product lines, particularly to low- or moderate-income census tracts, in its assessment area(s);

(D) A poor distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Little use of responsive lending practices, including loans in major product lines and community development loans in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made a low level of community development loans.

(v) *Substantial noncompliance.* The appropriate Federal financial supervisory agency rates a bank's or savings association's lending performance as being in "substantial noncompliance" if, in general, it demonstrates—

(A) A very poor record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A very small percentage of its loans in major product lines are made in its assessment area(s);

(C) A very poor geographic distribution of loans in major product lines, particularly to low- or moderate-income census tracts, in its assessment area(s);

(D) A very poor distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) No use of responsive lending practices, including retail loans and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made few, if any, community development loans.

(2) *Investment performance rating.* The appropriate Federal financial supervisory agency assigns each bank's or savings association's investment performance one of the five following ratings.

(i) *Outstanding.* The appropriate Federal financial supervisory agency rates a bank's or savings association's investment performance "outstanding" if, in general, it demonstrates—

(A) An excellent level of community development investments or community development grants, often in a leadership position; and

(B) Excellent responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(ii) *High satisfactory.* The appropriate Federal financial supervisory agency rates a bank's or savings association's investment performance "high satisfactory" if, in general, it demonstrates—

(A) A significant level of community development investments or community development grants, occasionally in a leadership position; and

(B) Good responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(iii) *Low satisfactory.* The appropriate Federal financial supervisory agency rates a bank's or savings association's investment performance "low satisfactory" if, in general, it demonstrates—

(A) An adequate level of community development investments or community development grants, although rarely in a leadership position; and

(B) Adequate responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(iv) *Needs to improve.* The appropriate Federal financial supervisory agency rates a bank's or savings association's investment performance "needs to improve" if, in general, it demonstrates—

(A) A poor level of community development investments or community development grants; and

(B) Poor responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(v) *Substantial noncompliance.* The appropriate Federal financial supervisory agency rates a bank's or savings association's investment performance as being in "substantial noncompliance" if, in general, it demonstrates—

(A) Few, if any, community development investments or community development grants; and

(B) Very poor responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(3) *Service performance rating.* The appropriate Federal financial supervisory agency assigns each bank's or savings association's service performance one of the five following ratings.

(i) *Outstanding.* The appropriate Federal financial supervisory agency rates a bank's or savings association's service performance "outstanding" if, in general, the bank or savings association demonstrates—

(A) Its service delivery systems are readily accessible to census tracts and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income census tracts or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income census tracts or low- or moderate-income individuals;

(D) It is a leader in providing community development services; and

(E) Excellent responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(ii) *High satisfactory.* The appropriate Federal financial supervisory agency rates a bank's or savings association's service performance "high satisfactory" if, in general, the bank or savings association demonstrates—

(A) Its service delivery systems are accessible to census tracts and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income census tracts and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income census tracts and low- and moderate-income individuals;

(D) It provides a relatively high level of community development services; and

(E) Good responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(iii) *Low satisfactory.* The appropriate Federal financial supervisory agency rates a bank's or savings association's service performance "low satisfactory" if, in general, the bank or savings association demonstrates—

(A) Its service delivery systems are reasonably accessible to census tracts and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income census tracts and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income census tracts and low- and moderate-income individuals;

(D) It provides an adequate level of community development services; and

(E) Adequate responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(iv) *Needs to improve.* The appropriate Federal financial supervisory agency rates a bank's or savings association's service performance "needs to improve" if, in general, the bank or savings association demonstrates—

(A) Its service delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income census tracts or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income census tracts or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), particularly low- or moderate-income census tracts or low- or moderate-income individuals;

(D) It provides a limited level of community development services; and

(E) Poor responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(v) *Substantial noncompliance.* The appropriate Federal financial supervisory agency rates a bank's or savings association's service performance as being in "substantial noncompliance" if, in general, the bank or savings association demonstrates—

(A) Its service delivery systems are unreasonably inaccessible to significant portions of its assessment area(s), particularly to low- or moderate-income census tracts or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income census tracts or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area(s), particularly low- or moderate-income census tracts or low- or moderate-income individuals;

(D) It provides few, if any, community development services; and

(E) Very poor responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(c) *Wholesale or limited purpose banks.* The appropriate Federal financial supervisory agency assigns each wholesale or limited purpose bank's or savings association's community development performance one of the four following ratings.

(1) *Outstanding.* The appropriate Federal financial supervisory agency rates a wholesale or limited purpose bank's or savings association's community development performance "outstanding" if, in general, it demonstrates—

(i) A high level of community development activities; and

(ii) Excellent responsiveness of community development activities to community credit needs in its assessment area(s).

(2) *Satisfactory.* The appropriate Federal financial supervisory agency rates a wholesale or limited purpose bank's or savings association's community development performance "satisfactory" if, in general, it demonstrates—

(i) An adequate level of community development activities; and

(ii) Adequate responsiveness of community development activities to community credit needs in its assessment area(s).

(3) *Needs to improve.* The appropriate Federal financial supervisory agency rates a wholesale or limited purpose bank's or savings association's community development performance as "needs to improve" if, in general, it demonstrates—

(i) A poor level of community development activities; and

(ii) Poor responsiveness of community development activities to community credit needs in its assessment area(s).

(4) *Substantial noncompliance.* The appropriate Federal financial supervisory agency rates a wholesale or limited purpose bank's or savings association's community development performance in "substantial noncompliance" if, in general, it demonstrates—

(i) Few, if any, community development activities; and

(ii) Very poor responsiveness of community development activities to community credit needs in its assessment area(s).

(d) *Banks and savings associations evaluated under the performance standards for small banks and savings associations and intermediate banks or savings associations*—(1) *Lending test ratings.* (i) *Eligibility for a satisfactory lending test rating.* The appropriate Federal financial supervisory agency rates a small bank's or savings association's or an intermediate bank's or savings association's lending performance "satisfactory" if, in general, the bank or savings association demonstrates—

(A) A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's or savings association's size, financial condition, the credit needs of its assessment area(s);

(B) A majority of its loans are in its assessment area(s);

(C) A reasonable distribution of loans to individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes given the demographics of the bank's or savings association's assessment area(s); and

(D) A reasonable geographic distribution of loans given the bank's or savings association's assessment area(s).

(ii) *Eligibility for an "outstanding" lending test rating.* A small bank or savings association or an intermediate bank or savings association that meets each of the standards for a "satisfactory" rating under this paragraph and exceeds some or all of those standards may warrant consideration for a lending test rating of "outstanding."

(iii) *Needs to improve or substantial noncompliance ratings.* A small bank or savings association or an intermediate bank or savings association may also receive a lending test rating of “needs to improve” or “substantial noncompliance” depending on the degree to which its performance has failed to meet the standard for a “satisfactory” rating.

(2) *Community development test ratings for intermediate banks and savings associations*—(i) *Eligibility for a satisfactory community development test rating.* The appropriate Federal financial supervisory agency rates an intermediate bank’s or savings association’s community development performance “satisfactory” if the bank or savings association demonstrates adequate responsiveness to the community development needs of its assessment area(s) through community development activities. The adequacy of the bank’s or savings association’s response will depend on its capacity for such community development activities, its assessment area’s need for such community development activities, and the availability of such opportunities for community development in the bank’s or savings association’s assessment area(s).

(ii) *Eligibility for an outstanding community development test rating.* The appropriate Federal financial supervisory agency rates an intermediate bank’s or savings association’s community development performance “outstanding” if the bank or savings association demonstrates excellent responsiveness to community development needs in its assessment area(s) through community development activities, as appropriate, considering the bank’s or savings association’s capacity and the need and availability of such opportunities for community development in the bank’s or savings association’s assessment area(s).

(iii) *Needs to improve or substantial noncompliance ratings.* An intermediate bank or savings association may also receive a community development test rating of “needs to improve” or “substantial noncompliance” depending on the degree to which its performance has failed to meet the standards for a “satisfactory” rating.

(3) *Overall rating*—(i) *Eligibility for a satisfactory overall rating.* No intermediate bank or savings association may receive an assigned overall rating of "satisfactory" or better unless it receives a rating of at least "satisfactory" on the lending test.

(ii) *Eligibility for an outstanding overall rating.* (A) An intermediate bank or savings association that receives an "outstanding" rating on one test and at least "satisfactory" on the other test may receive an assigned overall rating of "outstanding."

(B) A small bank or savings association that meets each of the standards for a "satisfactory" rating under the lending test and exceeds some or all of those standards may warrant consideration for an overall rating of "outstanding." In assessing whether a bank's or savings association's performance is "outstanding," the appropriate Federal financial supervisory agency considers the extent to which the bank or savings association exceeds each of the performance standards for a "satisfactory" rating; its performance in conducting community development activities; and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

(iii) *Needs to improve or substantial noncompliance overall ratings.* A small bank or savings association or an intermediate bank or savings association may also receive a rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.

(e) *Strategic plan assessment and rating*—(1) *Satisfactory goals.* The appropriate Federal financial supervisory agency approves as satisfactory measurable goals that adequately meet the credit needs of the bank's or savings association's assessment area(s).

(2) *Outstanding measurable goals.* If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as "satisfactory," the appropriate Federal financial supervisory agency will approve those goals as "outstanding."

(3) *Rating.* (i) The appropriate Federal financial supervisory agency assesses the performance of a bank or savings association operating under an approved strategic plan to determine if the bank or savings association has met its plan goals—

(A) If the bank or savings association substantially achieves its plan goals for a "satisfactory" rating, the appropriate Federal financial supervisory agency will rate the bank's or savings association's performance under the plan as "satisfactory."

(B) If the bank or savings association exceeds its plan goals for a "satisfactory" rating and substantially achieves its plan goals for an outstanding rating, the appropriate Federal financial supervisory agency will rate the bank's or savings association's performance under the plan as "outstanding."

(C) If the bank or savings association fails to meet substantially its plan goals for a "satisfactory" rating, the appropriate Federal financial supervisory agency will evaluate the bank's or savings association's performance as provided in § 25.27(k).

Appendix B to Part 25—CRA Notice

(a) *Notice for a bank's or savings association's website or website maintained on behalf of a bank or savings association.*

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the [Office of the Comptroller of the Currency (OCC) or Federal Deposit Insurance Corporation (FDIC), as appropriate] evaluates our record of meeting the credit needs of our communities consistent with safe and sound operations. The [OCC or FDIC, as appropriate] also takes this record into account when deciding on certain applications submitted by us.

Your Involvement is Encouraged

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent CRA Performance Evaluation, prepared by the [OCC or FDIC, as appropriate]; and comments received from the public relating to our performance in meeting community credit needs, as well as our responses to those comments. You may review this information on this website.

[Insert paragraph in paragraph (c) of appendix B to this part, as appropriate] If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

At least 30 days before the beginning of each quarter, the [OCC or FDIC, as appropriate] publishes a nationwide list of the banks and savings associations that are scheduled for CRA examination in that quarter. This list is available from the [OCC or FDIC, as appropriate], at [website address]. You may contact us for information about how you can send comments about our performance in meeting community credit needs. Additionally, you may send comments to the [OCC or FDIC, as appropriate], at [website address]. Your comments, together with any response by us, will be considered by the [OCC or FDIC, as appropriate] in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the [OCC or FDIC, as appropriate]. You may also request from the [OCC or FDIC, as appropriate] an announcement of our applications covered by the CRA filed with the [OCC or FDIC, as appropriate]. [Insert sentence(s) in paragraph (b) of appendix B to this part, as appropriate].

(b) *Insured national bank or savings association that is an affiliate of a holding company—Last sentences of the notice.*

(1) *An insured national bank that is an affiliate of a holding company must include the first sentence in brackets in its notice. An insured national bank must include the second sentence in brackets only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional banks.*

(2) *A savings association that is an affiliate of a holding company must include the last two sentences of the notice.*

[We are an affiliate of [name of holding company], a [bank holding company or savings and loan holding company, as appropriate]. [You may request from the [title of responsible official], Federal Reserve Bank of [__] [address] an announcement of applications covered by the CRA filed by [bank holding companies or savings and loan holding companies, as appropriate].]

(c) *Notice for banks and savings associations with branch offices. For banks or savings associations with one or more branch offices the CRA notice provided on the bank's or savings association's website or a website maintained on the bank's or savings association's behalf must include the following sections, as applicable, in the section of the notice titled "Your Involvement is Encouraged."*

You may review today the public section of our most recent CRA evaluation, prepared by the [OCC or FDIC, as appropriate], and a list of services provided at our branch[es]. You also have access to the following additional information on this website: (1) A map showing the assessment area[s] containing our branch[es], which are the area[s] in which the [OCC or FDIC, as appropriate] evaluates our CRA performance in [this community][our communities]; (2) information about our branches in [this assessment area][our assessment areas]; (3) a list of services we provide at those locations; (4) data on our lending performance in [this assessment area][our assessment areas]; and (5) copies of all written comments received by us that specifically relate to our CRA performance in [this assessment area][each of our assessment areas], and any responses we have made to those comments.

Appendix C—Methodologies

(a) *Calculating product line share of retail lending by dollar volume and loan count.*

The agencies are adopting a methodology for determining each retail product line's share of total retail lending using a combination of dollar volume and loan count. Each retail lending product line's share is calculated as the average of: (1) its share calculated using loans measured in dollar volume; and (2) its share calculated using loans measured in number of loans.

For example—

A bank’s retail lending in an assessment area includes the following:

150 home mortgage loans, with a total dollar volume of $25 million,

175 small business loans, with a total dollar volume of $18 million, and

45 small farm loans, with a total dollar volume of $10 million.

Calculation 1.

The share of the bank’s retail lending in the assessment in the home mortgage lending loan product area using dollar volume would be calculated as follows:

$25 million (from home mortgage loans), divided by the sum of

$25 million (from home mortgage loans), $18 million (from small business loans) and $10 million (from small farm loans).

$25 million divided by ($25 million + $18 million + $10 million) =

$25 million divided by $53 million =

0.472, which can be stated as 47.2 percent.

The bank’s home mortgage lending constitutes 47.2 percent of its retail lending in the assessment area, calculated by dollar volume.

Calculation 2.

The share of the bank’s retail lending in the assessment in the home mortgage lending loan product area using loan count would be calculated as follows:

150 loans (from home mortgage loans), divided by the sum of

150 loans (from home mortgage loans), 175 loans (from small business loans) and 45 loans (from small farm loans).

150 loans divided by (150 loans + 175 loans + 45 loans) =

150 divided by 370 =

0.405, which can be stated as 40.5 percent.

The bank’s home mortgage lending constitutes 40.5 percent of its retail lending in the assessment area, calculated by loan count.

To determine the bank's home mortgage lending loan product's share of retail lending in the assessment area using a combination of dollar volume and loan count, we calculate the average of the results from calculation 1) and calculation 2):

(0.472 + .405) / 2 =

0.877 / 2 =

0.439, which can be stated as 43.9 percent.

The bank's home mortgage lending loan product's share of retail lending in the assessment area, calculated using a combination of dollar volume and loan count, is 43.9 percent.

(b) *Calculation of the distribution of a bank's deposits in each of its assessment areas.*

This calculation uses the dollar volume of deposits the bank reports in the Summary of Deposits data in each of its branches, which are aggregated to calculate the dollar volume of deposits the bank reports in each of its assessment areas.[292] A bank that has only one assessment area will have 100 percent of its deposits assigned to that one assessment area. For a bank with multiple assessment areas, the calculation will proceed as follows:

A bank has a total of $4 billion in deposits reported the Summary of Deposits, allocated across 10 branches, which are distributed across three assessment areas:

Assessment area 1:

Branch A: $2 billion in deposits

Branch B: $350 million in deposits

Branch C: $230 million in deposits

Assessment area 2:

Branch D: $200 million in deposits

Branch E: $250 million in deposits

Branch F: $200 million in deposits

[292] The Summary of Deposits data is updated annually and published by the FDIC at *https://banks.data.fdic.gov/bankfind-suite/SOD/branchOffice*.

Branch G: $200 million in deposits

Assessment area 3:

Branch H: $220 million in deposits

Branch I: $200 million in deposits

Branch J: $150 million in deposits

The total dollar volume of the bank's deposits associated with each assessment area will be the sum of the dollar volume of the bank's deposits assigned in the Summary of Deposits data to the branches in each of its assessment areas, which, using the example above, would be calculated as follows:

Assessment area 1:

$2 billion + $350 million + $230 million = $2.580 billion

Assessment area 2:

$200 million + $250 million + $200 million + $200 million = $850 million

Assessment area 3:

$220 million + $200 million + $150 million = $570 million

The percentage of the bank's deposits allocated to each assessment area would be calculated as follows:

Assessment Area 1:

$2.580 billion / $4 billion = 0.645 or 64.5 percent

Assessment Area 2:

$850 million / $4 billion = 0.213 or 21.3 percent

Assessment Area 3:

$570 million / $4 billion = 0.143 or 14.3 percent

PART 35—DISCLOSURE AND REPORTING OF CRA-RELATED AGREEMENTS

8. The authority citation for part 35 continues to read as follows:

Authority: 12 U.S.C. 1, 93a, 1462a, 1463, 1464, 1831y, and 5412(b)(2)(B).

§ 35.4 [Amended]

9. Amend § 35.4(a)(2) by:

a. In paragraph (i), removing "§ 25.22 of appendix G to 12 CFR part 25" and adding in its place "12 CFR 25.22".

b. In paragraph (ii), removing "§ 25.23 of appendix G to 12 CFR part 25" and adding in its place "12 CFR 25.23".

c. In paragraph (iii), removing "§ 25.24(d) of appendix G to 12 CFR part 25" and adding in its place "12 CFR 25.24(c)".

d. In paragraph (iv), removing "§ 25.24(e) of appendix G to 12 CFR part 25" and adding in its place "12 CFR 25.24(d)".

e. In paragraph (v), removing "§ 25.25(c) of appendix G to 12 CFR part 25" and adding in its place "12 CFR 25.25(c)".

f. In paragraph (vi), removing "§ 25.26(a) of appendix G to 12 CFR part 25" and adding in its place "12 CFR 25.26(a)".

g. In paragraph (vii), removing "§ 25.27(f) of appendix G to 12 CFR part 25" and adding in its place "12 CFR 25.27".

§ 35.6 [Amended]

10. Amend § 35.6 in paragraph (b)(7) by removing "§ 25.43 of appendix G to 12 CFR part 25" and adding in its place "12 CFR 25.43".

§ 35.11 [Amended]

11. Amend § 35.11 in paragraph (d) by removing "§ 25.43 of appendix G to 12 CFR part 25" and adding in its place "12 CFR 25.43".

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Chapter III

Authority and Issuance

For the reasons discussed in the preamble, the Federal Deposit Insurance Corporation proposes to revise 12 CFR parts 345 and 346 to read as follows:

12. Part 345 is revised to read as follows:

PART 345 COMMUNITY REINVESTMENT

Subpart A—General

Sec.

Subpart B—Standards for Assessing Performance

Subpart C—Records, Reporting, and Disclosure Requirements

Appendix A to Part 345—Ratings

Appendix B to Part 345—CRA Notice

Appendix C—Methodologies

Authority: 12 U.S.C. 1814–1817, 1819–1820, 1828, 1831u and 2901–2908, 3103–3104, and 3108(a).

Subpart A—General

§ 345.11 Authority, purposes, scope, and severability.

(a) *Authority and OMB control number* —

(1) *Authority*. The authority for this part is 12 U.S.C. 1814-1817, 1819-1820, 1828, 1831u and 2901-2907, 3103-3104, and 3108(a).

(2) *OMB control number*. The information collection requirements contained in this part were approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 et seq. and have been assigned OMB control number 3064-0092.

(b) *Purposes*. In enacting the Community Reinvestment Act (CRA), Congress required each appropriate Federal financial supervisory agency to publish regulations to carry out the purposes of the Act. The purpose of the CRA is to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered, consistent with the safe and sound operation of such institutions. This part is intended to carry out the purposes of the CRA by:

(1) Establishing the framework and criteria by which the Federal Deposit Insurance Corporation (FDIC) assesses a bank's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank; and

(2) Providing that the FDIC takes that record into account in considering certain applications.

(c) *Scope*—(1) *General*. Except for certain special purpose banks described in paragraph (c)(3) of this section, this part applies to all insured State nonmember banks, including insured

State branches as described in paragraph (c)(2) of this section and any uninsured State branch that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)).

(2) *Insured State branches*. Insured State branches are branches of a foreign bank established and operating under the laws of any State, the deposits of which are insured in accordance with the provisions of the Federal Deposit Insurance Act. In the case of insured State branches, references in this part to "main office" mean the principal branch within the United States and the term "branch" or "branches" refers to any insured State branch or branches located within the United States. The "assessment area" of an insured State branch is the community or communities located within the United States served by the branch as described in § 345.41.

(3) *Certain special purpose banks*. This part does not apply to special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than on an incidental basis. These banks include banker's banks, as defined in 12 U.S.C. 24(Seventh), and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents.

(d) *Severability*. The provisions of this part are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the FDIC's intention that the remaining provisions will continue in effect.

§ 345.12 Definitions.

For purposes of this part, the following definitions apply:

Affiliate means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

Area median income means:

(1) The median family income for the MSA, if a person or census tract is located in an MSA, or for the metropolitan division, if a person or census tract is located in an MSA that has been subdivided into metropolitan divisions; or

(2) The statewide nonmetropolitan median family income, if a person or census tract is located in a nonmetropolitan area.

Assessment area means a geographic area delineated in accordance with § 345.41.

Bank means a State nonmember bank, as that term is defined in section 3(e)(2) of the Federal Deposit Insurance Act, as amended (FDIA) (12 U.S.C. 1813(e)(2)), with Federally insured deposits, except as provided in § 345.11(c). The term “bank” also includes an insured State branch as defined in § 345.11(c).

Branch means a banking facility authorized as a branch, and only includes a “domestic branch” as that term is defined in section 3(o) of the FDIA (12 U.S.C. 1813(o)).

Census tract means a census tract delineated by the U.S. Bureau of the Census in the most recent decennial census.

Community development means

(1) *Affordable housing*, which means—

(i) Rental housing that is:

(A) Likely to be inhabited by low- or moderate-income individuals or families as demonstrated by median rents that do not and are not projected at the time of the transaction to exceed 30 percent of 80 percent of the area median income;

(B) Inhabited by low- or moderate-income individuals or families and is mixed-income housing, such as in connection with a development that has a mixed-income housing component or an affordable housing set-aside required by Federal, State, or local government, in which case the pro rata dollar amount of the total activity will be based on the percentage of units set-aside for affordable housing for low- or moderate-income individuals;

(C) Likely to be inhabited by low-, moderate-, or middle-income individuals or families as demonstrated by median rents that do not and are not projected at the time of the transaction to exceed 30 percent of 120 percent of the area median income in high-cost areas; or

(D) Undertaken in conjunction with an explicit Federal, State, local, or Tribal government affordable housing program for low- or moderate-income individuals or families; or

(ii) Owner-occupied housing purchased, refinanced, or improved by or on behalf of low- or moderate-income individuals or families, except for home mortgage loans provided directly to individuals or families; or

(2) *Civic assistance*, which means—

(i) Providing support or financing for childcare, education (including low-cost education loans), workforce development, job training, healthcare, housing assistance, financial literacy, homebuyer counseling, or other community-focused assistance that—

(ii) Serves, assists, or is reasonably expected to serve or assist low- or moderate-income individuals or families; or

(3) *Economic development*, which means—

(i) Financing—

(A) For businesses or farms that meet the size eligibility standards of the U.S. Small Business Administration Development Company (13 CFR 121.301) or Small Business Investment Company (13 CFR 121.301 and 121.201) programs or have gross annual revenues of $1 million or less;

(B) That expands, improves, or preserves the business's or farm's productive capacity, physical presence, or employment bases, excluding financing primarily used for ongoing operating liquidity; and

(C) That is not reasonably likely to result in a reduction in jobs at the business or farm;

(ii) Technical assistance and supportive services, such as shared space, technology, or administrative assistance for businesses or farms that meet the size eligibility standards of the

U.S. Small Business Administration Development Company (13 CFR 121.301) or Small Business Investment Company (13 CFR 121.301 and 121.201) programs or have gross annual revenues of $1 million or less;

(iii) Federal, State, local, or Tribal government programs, projects, or initiatives that serve small businesses or small farms as those terms are defined in the programs, projects, or initiatives, including a—

(A) U.S. Small Business Administration Certified Development Company, as that term is defined in 13 CFR 120.10;

(B) Small Business Investment Company, as described in 13 CFR part 107;

(C) Qualified Community Development Entity, as defined in 26 U.S.C. 45D(c);

(D) U.S. Department of Agriculture Rural Business Investment Company, as defined in 7 CFR 4290.50; or

(E) Community Development Financial Institution that finances small businesses or small farms; or

(4) *Revitalization or stabilization of targeted geographic areas*, which means—

(i) Activities that revitalize or stabilize—

(A)*(1)*(*i*) Low- or moderate-income census tracts;

(*ii*) Distressed or underserved nonmetropolitan middle-income census tracts;

(*iii*) Indian country or other Tribal and native lands; or

(*iv*) Any other area targeted by a government entity for redevelopment that qualifies for significant economic incentives, such as tax credits, tax abatements, or grants; and

(*2*) By providing financing or other support to the targeted geographic areas in paragraph (4)(i)(A)(*1*) of this definition for—

(*i*) Essential community facilities or essential infrastructure;

(*ii*) Federal, State, local, or Tribal government programs, projects, or initiatives that are consistent with a bona fide government revitalization or stabilization plan;

(*iii*) Programs, projects, or initiatives that assist individuals and communities with preparing for, adapting to, or withstanding natural disasters; or

(*iv*) Programs, projects, or initiatives with a primary purpose of attracting or retaining a major employer that will create long-term job opportunities (*i.e.*, reasonably likely to have a meaningful direct or indirect impact on unemployment in the targeted geographic area); or

(B) A designated disaster area by providing financing or other support consistent with a disaster recovery plan, including activities that assist individuals and communities in the designated disaster area to prepare for, adapt to, or withstand natural disasters.

Community development activity means a community development grant, community development investment, community development loan, or community development service.

Community development activity location. A community development activity is located in:

(1) The assessment area(s) that are benefited or served by the activity; or

(2) The State(s) or multistate MSA(s) that are benefited or served by the activity.

Community development grant means a grant or donation that

(1) Will be directly used by the recipient for a program, project, or initiative that has as its primary purpose community development;

(2) Except as specified in § 345.13(e), benefits the bank's assessment area(s); and

(3) For a large bank, is provided to a recipient whose indirect costs for administering the grant or donation may not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR part 200, or a comparable standard.

Community development investment means a security or a deposit, or membership share in a financial institution, including a legally binding commitment to invest, that

(1) Has as its primary purpose community development,

(2) Is permissible under applicable laws, rules, and regulations, and

(3) Except as specified in § 345.13(e), benefits the bank's assessment area(s).

Community development loan means a loan, including a legally binding commitment to lend, that

(1) Has as its primary purpose community development;

(2) Has not been considered in the bank's assessment as a home mortgage, small business, small farm, or consumer loan, unless the loan is for a multifamily dwelling (as defined in § 1003.2(n) of this title) or is a low-cost education loan; and

(3) Except as specified in § 345.13(e), benefits the bank's assessment area(s).

Community development service means a volunteer service performed by a bank employee representing the bank that—

(1) Has as its primary purpose community development;

(2) Is related to the provision of financial services or the employee's area of expertise at the bank; and

(3) Except as specified in § 345.13(e), benefits the bank's assessment area(s).

Complexity means the extent to which a bank's—

(1) Community development investment, community development grant, or community development service is a necessary or otherwise beneficial component of a multicomponent financing transaction involving a loan; or

(2) Community development loan or community development investment that is the functional equivalent of a loan that otherwise requires specialized expertise in order to consummate the transaction (*e.g.*, a community development activity that is not routinely provided by private investors, such as an activity that relies on public subsidies).

Consumer loan means a loan to one or more individuals for household, family, or other personal expenditures as defined in Schedule RC-C of the instructions for preparation of Consolidated Reports of Condition and Income, including the categories of credit cards, other revolving credit plans, automobile loans, and other consumer loans.

Designated disaster area means a geographic area that is the subject of a Major Disaster Declaration by the Federal Emergency Management Association for a period of 36 months after the declaration, unless extended by the FDIC in writing.

Distressed or underserved nonmetropolitan middle-income census tract means

(1) A middle-income census tract designated by the Board of Governors of the Federal Reserve System, FDIC, and the OCC as distressed or underserved based on the criteria in paragraph (2) of this definition, compiled in a list, and published annually by the Federal Financial Institutions Examination Council.

(2) A nonmetropolitan middle-income census tract is designated as:

(i) Distressed if it is in a county that meets one or more of the following criteria—

(A) An unemployment rate of at least 1.5 times the national average;

(B) A poverty rate of 20 percent or more; or

(C) A population loss of 10 percent or more between the previous and most recent decennial census or a net migration loss of 5 percent or more over the five-year period preceding the most recent census.

(ii) Underserved if it meets the criteria for population size, density, and dispersion that indicate the area's population is sufficiently small, thin, and distant from a population center to likely have difficulty financing the fixed costs of meeting essential community needs. The criteria for these designations are based on the Urban Influence Codes established by the U.S. Department of Agriculture's Economic Research Service numbered "6," "8," or "9."

Essential community facility means a facility that is open to the public and that provides a valuable resource or service, including a school, library, park, supermarket, hospital or other healthcare facility, public safety facility, or youth or community center.

Essential infrastructure means—

(1) Public infrastructure, including public roads, bridges, and tunnels; and

(2) Essential telecommunications infrastructure, mass transit, water supply and distribution, utilities supply and distribution, sewage treatment and collection, industrial parks, or other similar infrastructure that is provided as part of a public and private partnership.

Home mortgage loan means a closed-end mortgage loan or an open-end line of credit as these terms are defined under § 1003.2 of this title and that is not an excluded transaction under § 1003.3(c)(1) through (10) and (13) of this title.

Income level includes:

(1) Low-income, which means an individual income that is less than 50 percent of the area median income or a median family income that is less than 50 percent in the case of a census tract.

(2) Moderate-income, which means an individual income that is at least 50 percent and less than 80 percent of the area median income or a median family income that is at least 50 and less than 80 percent in the case of a census tract.

(3) Middle-income, which means an individual income that is at least 80 percent and less than 120 percent of the area median income or a median family income that is at least 80 and less than 120 percent in the case of a census tract.

(4) Upper-income, which means an individual income that is 120 percent or more of the area median income or a median family income that is 120 percent or more in the case of a census tract.

Incidental basis means—

(1) Provided infrequently as an

(i) Incident to a bank's specialized operations; or

(ii) Accommodation to the bank's customers; and

(2) Not provided as a lending product the bank advertises or markets to the public or its customers; and

(3) For purposes of paragraph (1) of this definition and with respect to the definition of a wholesale bank or limited purpose bank, incidental lending constitutes no more than 5 percent of the bank's total lending as of December 31 of both of the prior two calendar years.

Indian country means a geographic area that is:

(1) Covered by 18 U.S.C. 1151; or

(2) A Tribal Census Tract, an Oklahoma Tribal Statistical Area, a Tribal Designated Statistical Area, an Alaskan Native Village Statistical Area, or an American Indian Joint-Use Area, as those terms are defined by the U.S. Bureau of the Census.

Intermediate bank means a bank with assets of $10 billion or less as of December 31 of either of the prior two calendar years and that is not a small bank.

Large bank means a bank with assets of more than $10 billion as of December 31 of both of the prior two calendar years.

Limited purpose bank means a bank that

(1) Offers only a narrow product line (such as credit card or motor vehicle loans);

(2) Offers other types of loans only on an incidental basis; and

(3)For which a designation as a limited purpose bank is in effect, in accordance with § 345.25(b).

Loan location means the following, with respect to retail loans:

(1) A consumer loan is located in the census tract where the borrower resides;

(2) A home mortgage loan is located in the census tract where the property securing the loan is located; and

(3) A small business or small farm loan is located in the census tract where the main business facility or farm property securing the loan is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

Loan production office means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

Low-cost education loan means any education loan, as defined in section 140(a)(7) of the Truth in Lending Act (15 U.S.C. 1650(a)(7)) (including a loan under a State or local education loan program), originated by the bank for a student at an "institution of higher education," as that term is defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002) and the implementing regulations published by the U.S. Department of Education, with interest rates and fees no greater than those of comparable education loans offered directly by the U.S. Department of Education. Such rates and fees are specified in section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e).

Metropolitan division means a metropolitan division as defined by the Director of the Office of Management and Budget.

Military bank—(1) *Definition*. *Military bank* means a bank whose business predominately consists of serving the needs of military personnel who serve or have served in the U.S. Armed Forces (including the U.S. Army, U.S. Navy, U.S. Marine Corps., U.S. Air Force, U.S. Coast Guard, and U.S. Space Force) or dependents of U.S. military personnel.

(2) *Standard.* A bank's business predominately consists of serving the needs of U.S. military personnel or their dependents if the bank's most important customer group is U.S. military personnel or their dependents.

MSA means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

Nonmetropolitan area means any area that is not located in an MSA.

Other Tribal and native lands mean State Designated Tribal Statistical Areas, as defined by the U.S. Bureau of the Census, and Hawaiian Home Lands.

Remote Service Facility (RSF) means an automated, unstaffed banking facility available and accessible to members of the public owned or operated by, or operated exclusively for, the bank, such as an automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility, at which deposits are received, cash dispersed, or money lent.

Small bank —

(1) *Definition*. *Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than $1 billion adjusted annually pursuant to paragraph (2) of this definition.

(2) *Adjustment*. The FDIC adjusts and publishes the dollar figure in paragraph (1) of this definition on its website, *www.fdic.gov*. The adjustment is published by the FDIC, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million.

Small business loan means a loan included in "loans to small businesses" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

Small farm loan means a loan included in "loans to small farms" as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

Tier 1 capital means tier 1 capital, as defined in 12 CFR 324.2.

Wholesale bank means a bank that

(1) Is not in the business of extending home mortgage, small business, small farm, or consumer loans, other than on an incidental basis; and

(2) The FDIC has designated as a wholesale bank, in accordance with § 345.25(b).

§ 345.13 Consideration of community development activities.

(a) *Illustrative list*—(1) *Maintaining the illustrative list.* The FDIC will maintain and make available to the public a non-exhaustive, illustrative list of examples of community development activities. The illustrative list may include examples of loans, investments, grants, and services that the FDIC has determined are not community development activities. The list is available at *www.fdic.gov*.

(2) *Modifications to the illustrative list*. The FDIC will periodically update the illustrative list described in paragraph (a)(1) of this section.

(b) *Confirmation of community development activity eligibility.* (1) *Request for confirmation of eligibility.* A bank may request that the FDIC review a loan, investment, grant, or service to confirm if it qualifies for consideration as a community development activity in a bank's CRA examination by submitting a request to, and in a format prescribed by, the FDIC.

(2) *Process for confirming eligibility.* (i) To confirm the community development activity eligibility of a loan, investment, grant, or service for which a request has been submitted under paragraph (b)(1) of this section, the FDIC considers:

(A) Information that describes the community development purpose and otherwise supports the request;

(B) Whether the activity is consistent with the safe and sound operation of the bank; and

(C) Any other information that the FDIC deems relevant.

(ii) The FDIC may impose limitations or requirements on a confirmation that a loan, investment, grant, or service qualifies as a community development activity to ensure consistency with this part.

(3) *Notification of eligibility.* (i) The FDIC notifies the requestor in writing of any confirmation of community development activity eligibility under paragraph (b)(2) of this section, as well as the rationale for such determination. The FDIC communicates a response within 90 days after the request is received by the agency, unless the agency notifies the requestor that additional time is needed to consider a request.

(ii) The bank must retain any notification of eligibility issued pursuant to this paragraph until the completion of its next CRA examination.

(c) *Eligible community development activities, consideration.* In assessing a bank's CRA performance under this part, the FDIC will consider any community development activity that was eligible for CRA consideration at the time the bank conducted the activity in that bank's CRA examination if the activity was conducted during the evaluation period or remains on a bank's balance sheet.

(d) *Community development activities in assessment areas.*

(1) *Scope.* A community development activity benefits or serves a bank's assessment area(s) if—

(i) The project, program, or initiative supported by the activity or the recipient of the proceeds or beneficiary of the activity is located in the bank's assessment area; or

(ii) The activity has a purpose, mandate, or function of benefiting or serving the bank's assessment area(s).

(2) *Assessment area allocation.* (i) Community development activities that benefit or serve more than one assessment area will be allocated based on—

(A) Documentation of the physical address of the recipient of the proceeds or the beneficiary of the activity, if available; or

(B) The weight assigned to each assessment area benefited or served as provided in paragraph (d)(3).

(3) *Assigning assessment area weight(s)*. (i) For purposes of allocating community development loans, community development investments, and community development grants to assessment areas under paragraph (d)(2) of this section, the FDIC will assign a weight to an assessment area based on the proportion of deposits in the assessment area as determined by

(A) The available Summary of Deposits survey data published by the FDIC for the latest year in the evaluation period under the methodology provided in appendix C to this part; or

(B) At the bank's option, another reasonable methodology, as approved by the FDIC.

(ii) In allocating deposits under paragraph (d)(3)(i)(B) of this section, a bank—

(A) Must assign assessment area weight(s) such that the aggregate of the weight(s) equals 100 percent; and

(B) May use all of the deposits included in the Summary of Deposits survey data published by the FDIC or a reasonable subset thereof based on the bank's business strategy, such as retail customer deposits or domestic deposits, as approved by the FDIC.

(e) *Community development activities outside assessment area(s)*. (1) *In general*—(i) The FDIC will consider at a bank's option, community development activities that benefit or serve areas outside of the bank's assessment area(s), provided that the bank meets or exceeds the applicable geographic flexibility standard(s) provided in paragraphs (e)(2)(i) and (ii) of this section, subject to paragraphs (e)(3) and (4) of this section.

(ii) A community development activity benefits or serves an area outside of a bank's assessment area(s) if the activity does not benefit or serve one or more of the bank's assessment areas as provided paragraph (d)(1) of this section.

[OPTION 1 FOR PARAGRAPHS (e)(2) – (4)]

(2) *Geographic flexibility standards.* The geographic flexibility standard(s) are calculated on an assessment area basis as follows—

(i) *Large banks*. (A) *Community development loans*. For each year in the evaluation period, a large bank must expend at least 0.625 percent of the bank's tier 1 capital allocated based on the weight assigned to the assessment area, as provided in paragraph (d)(3) of this section, toward community development loans that receive consideration in the bank's assessment area(s), as provided in paragraphs (d)(1) and (2) of this section; and

(B) *Community development investments and community development grants.* For each year in the evaluation period, a large bank must expend at least 0.625 percent of the bank's tier 1 capital allocated based on the weight assigned to the assessment area, as provided in paragraph (d)(3) of this section, toward community development investments and community development grants in the aggregate that receive consideration in the bank's assessment area(s), as provided in paragraphs (d)(1) and (2) of this section.

(ii) *Intermediate banks, wholesale banks, and limited purpose banks.* For each year in the evaluation period, an intermediate bank, wholesale bank, or limited purpose bank must expend at least 1.25 percent of the bank's tier 1 capital allocated based on the weight assigned to the assessment area, as provided in paragraph (d)(3) of this section, toward community development loans, community development investments, and community development grants in the aggregate that receive consideration in the bank's assessment area(s) as provided in paragraphs (d)(1) and (2) of this section.

(3) *Geographic flexibility standard exception*. Notwithstanding the requirements in paragraph (e)(2)(i) and (ii) of this section, the FDIC may determine based on performance context that a bank that has extended a lesser dollar amount of community development loans or community development investments and community development grants, as applicable, has sufficiently met the community development needs of its assessment area(s) to receive consideration for community development activities outside of its assessment area(s).

(4) *Geographic scope of consideration of community development activities outside assessment area(s).* A bank that does not meet the standards in paragraph (e)(2) or the exception in paragraph (e)(3) of this section in all of its assessment areas will only receive consideration for community development activities conducted outside of its assessment areas in the assigned rating for any State or multistate MSA in which the bank met the standards in paragraph (e)(2) or the exception in paragraph (e)(3) of this section for all of the assessment areas in the State or multistate MSA.

[OPTION 2 FOR PARAGRAPHS (e)(2) – (4)]

(2) *Geographic flexibility standards*. A bank meets the geographic flexibility standard for serving the community development needs of an assessment area if the bank has an adequate level of community development activities in the assessment area over the evaluation period, considering the dollar amount and responsiveness of community development activities to assessment area community development needs.

(3) [Reserved]

(4) *Geographic scope of consideration of community development activities outside assessment area(s).* A bank that does not meet the geographic flexibility standard(s) in all of its assessment areas will not receive consideration for community development activities conducted

outside of its assessment areas in the assigned rating for any State or multistate MSA in which the bank does not meet the geographic flexibility standard. A bank will only receive consideration for community development activities conducted outside of its assessment areas in the assigned rating for any State or multistate MSA in which the bank meets the geographic flexibility standard for all of the assessment areas in the State or multistate MSA.

(5) *Consideration in assigned ratings*. The FDIC will consider community development activities that benefit or serve an area outside a bank's assessment area(s) in assigning a bank a rating for a State, multistate MSA, or the bank—

(i) *Rating level*—(A) *State or multistate MSA assigned rating*. The FDIC will consider a community development activity in assigning a State or multistate MSA rating, as applicable, if the bank is rated in the State or multistate MSA pursuant to 12 U.S.C. 2906(d) and the community development activity benefits or serves the State or multistate MSA; or

(B) *Bank assigned rating.* The FDIC will consider a community development activity in assigning the overall bank rating if the community development activity was not considered at the State or multistate MSA level.

(ii) *Rating area allocation*. A community development activity considered at the State or multistate MSA level pursuant to paragraph (e)(5)(i)(A) that benefits or serves more than one State or multistate MSA will be allocated based on—

(A) Documentation of the physical address of the recipient of the proceeds of the beneficiary of the activity, if available; or

(B) The aggregate weight of the assessment area(s) located in the State or multistate MSA in accordance with paragraph (d)(3) within each state or multistate MSA.

§ 345.14 Responsiveness.

(a) *Responsiveness generally.* Under the applicable performance tests and standards in §§ 345.22 through 345.26, the FDIC assesses the responsiveness of a bank's retail lending activities, retail banking services, and community development activities in meeting community development and credit needs based on paragraph (b) of this section and, in the context of that assessment, may take into account applicable performance context factors pursuant to § 345.21(b).

(b) *Responsiveness factors.* The factors considered in assessing the responsiveness of a bank's retail lending activities, retail banking services, and community development activities include—

(1) The innovativeness, flexibility, complexity, or impact of retail lending activity, retail banking service, or community development activity, as applicable; and

(2) The quality of a bank's retail lending activities, retail banking services, and community development activities as demonstrated, for example, by the success of the activity or service in meeting an identified community development or credit need.

Subpart B—Standards for Assessing Performance

§ 345.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards*. The FDIC assesses the CRA performance of a bank in an examination as follows:

(1) *Lending, investment, and service tests*. The FDIC applies the lending, investment, and service tests, as provided in §§ 345.22 through 345.24, in evaluating the performance of a bank, except as provided in paragraphs (a)(2), (3), (4), (5), and (6) of this section.

(2) *Community development test for wholesale or limited purpose banks*. The FDIC applies the community development test for a wholesale or limited purpose bank, as provided in § 345.25, except as provided in paragraph (a)(5) of this section.

(3) *Performance standards for small banks*. The FDIC applies the performance standards for small banks as provided in § 345.26 in evaluating the performance of a small bank or a bank that was a small bank during the prior calendar year, unless the bank elects, and receives approval if required, to be assessed as provided in paragraphs (a)(1), (2), or (5) of this section. The bank

may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks under § 345.42.

(4) *Performance standards for intermediate banks.* The FDIC applies the performance standards for intermediate banks as provided in § 345.26 in evaluating the performance of an intermediate bank or a bank that was an intermediate bank during the prior calendar year, unless the bank elects, and receives approval if required, to be assessed as provided in paragraphs (a)(1), (2), or (5) of this section. The bank may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks under § 345.42.

(5) *Strategic plan*. The FDIC evaluates the performance of a bank under a strategic plan approved in accordance with § 345.27. The FDIC evaluates the performance of a bank under a strategic plan at the end of the plan term based on the measurable goals specified in the plan, including any annual interim measurable goals.

(6) *Military banks*—(i) *In general*. The FDIC evaluates the performance of a military bank under the applicable performance tests or standards described in paragraphs (a)(1) through (5) of this section.

(ii) *Military banks operating under § 345.41(f)*. If a military bank delineates the United States and its territories as its sole assessment area pursuant to § 345.41(f), the FDIC evaluates the bank exclusively at the institution level based on its performance in its sole assessment area.

(iii) *Geographic components excluded*. Notwithstanding any requirement in subpart B of this part, a military bank is not evaluated under any component of a performance test or standard that evaluates performance based on geography (*e.g.*, the geographic distribution of a bank's lending activity).

(b) *Performance context.* The FDIC applies the performance tests and standards in paragraph (a) of this section and also approves and evaluates a strategic plan in the context of data or information about—

(1) Assessment area demographics, including income levels, distribution of income, nature of housing stock, housing costs, and the economic environment (national, regional, and local);

(2) Lending, investment, grant, and service opportunities maintained by the bank or obtained from community organizations, State, local, and Tribal governments, economic development agencies, or other sources;

(3) The bank's product offerings and business strategy (if provided by the bank);

(4) Institutional capacity and constraints, including the size and financial condition of the bank, safety and soundness limitations, and any other factors that significantly affect the bank's ability to provide lending, investments, grants, or services in its assessment area(s);

(5) The bank's past performance and the performance of similarly situated lenders;

(6) The bank's public file, as described in § 345.43, and any written comments about the bank's CRA performance submitted to the bank or the FDIC;

(7) The bank's community development activities and retail banking services, to the extent not considered under another performance test; and

(8) Anything else deemed relevant by the FDIC.

(c) *Assigned ratings*. The FDIC assigns to a bank one of the following four ratings pursuant to § 345.28 and appendix A to this part: "outstanding"; "satisfactory"; "needs to improve"; or "substantial noncompliance," as provided in 12 U.S.C. 2906. The rating assigned by the FDIC reflects the bank's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank.

(d) *Safe and sound operations*. This part and the CRA do not require a bank to provide loans, investments, grants, or services that are inconsistent with safe and sound operations. To the contrary, the FDIC anticipates banks can meet the standards of this part with safe and sound loans, investments, grants, and services on which the banks expect to make a profit. Banks are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income census tracts or individuals, only if consistent with safe and sound operations.

(e) *Activities in cooperation with minority- or women-owned financial institutions and low-income credit unions*. In assessing and taking into account the record of a nonminority-owned and nonwomen-owned bank under this part, the FDIC considers as a factor capital investment, loan participation, and other ventures undertaken by the bank in cooperation with minority- and women-owned financial institutions and low-income credit unions. Such activities must help meet the credit needs of local communities in which the minority- and women-owned financial institutions and low-income credit unions are chartered. To be considered, such activities need not also benefit the bank's assessment area(s).

(f) *Treatment of community development loans, community development investments, and community development grants*. A community development loan, community development investment, or community development grant will be considered in assessing a bank's CRA performance in the evaluation period it was originated, made, or purchased by the bank, and, for community development loans and community development investments, in any subsequent evaluation period for which the community development loan or community development investment remains on the bank's balance sheet at the end of the evaluation period.

[OPTION 1 FOR PARAGRAPH (g)]

(g) *Major product line.* The FDIC assesses a bank's performance with respect to retail lending (*i.e.*, home mortgage, small business, small farm, and consumer originations and purchases) based on its major product line(s). A bank's major product line(s) are—

(1)(i) The largest two product lines by dollar volume and loan count, as provided in appendix C to this part of home mortgage, small business, small farm, and consumer lending, if the bank makes loans in at least two of these product lines; or

(ii) Home mortgage, small business, small farm, or consumer lending, in the product line in which the bank makes loans, if the bank makes loans in only one of these product lines.

(2) Notwithstanding paragraph (g)(1)(i) of this section, the FDIC will only evaluate consumer lending if the bank's consumer loans constitute more than 50 percent of its retail lending by dollar volume and loan count or at the bank's option, and, if this standard is not met, the agency will evaluate the largest two product lines of home mortgage, small business, and small farm lending.

[OPTION 2 FOR PARAGRAPH (g)]

(g) *Major product line.* (1) The FDIC assesses a bank's retail lending in its major product line(s) in each assessment area.

Whether home mortgage, small business, small farm, or consumer lending is a major product line in an assessment area will be based on the—

(i) Bank's overall lending volume and business strategy;

(ii) Bank's capacity to lend in that assessment area; and

(iii) Extent to which lending in the product line meaningfully contributes to the bank's record of meeting the credit needs of that assessment area.

(2) Notwithstanding paragraph (g)(1) of this section, the FDIC will only evaluate consumer lending if the bank's consumer loans constitute more than 50 percent of its retail lending by dollar volume and loan count, or at the bank's option.

(h) *Meaningful assessment*. (1) *In general.* In assessing a bank's retail lending performance in a performance criterion under the applicable performance test or standard, the FDIC considers a bank's retail lending activities pursuant to the performance criterion for which the bank may conduct a meaningful assessment, as provided in paragraph (h)(2) of this section.

(2) *Meaningful assessment standards.* The FDIC—

(i) Will consider 30 loans to be a sufficient number of loans to perform a meaningful assessment; and

(ii) May consider less than 30 loans if the agency determines that a smaller number would allow for a meaningful assessment.

(3) *Other assessments of retail lending performance.* When a meaningful assessment of the bank's loan data cannot be performed, the FDIC will assess the bank's lending performance based on other lending performance criteria for which a meaningful assessment may be conducted or consideration of applicable performance context factors described in paragraph (b) of this section that inform the bank's lending activity in the assessment area.

§ 345.22 Lending test.

(a) *Scope of test.*

(1) The FDIC evaluates a bank's record of meeting community credit needs by assessing the bank's major product lines and community development loans, as provided in this part.

(2) A bank may ask the FDIC to consider loans originated or purchased by consortia in which the bank participates or by third parties in which the bank has invested only if the loans meet the definition of community development loans and only in accordance with paragraph (d) of this section. The FDIC will only consider these loans under the community development lending criterion in paragraph (b)(4) of this section.

(b) *Performance criteria*. The FDIC evaluates a bank's lending performance pursuant to the following criteria:

(1) *Lending activity*. The number and dollar amount of the bank's loans in its major product lines in the bank's assessment area(s);

(2) *Geographic distribution*. The geographic distribution of the bank's loans in its major product line(s), based on the loan location, including:

(i) The proportion of the bank's lending in the bank's assessment area(s);

(ii) The dispersion of lending in the bank's assessment area(s); and

(iii) The number and dollar amount of loans in low-, moderate-, middle-, and upper-income census tracts in the bank's assessment area(s);

(3) *Borrower characteristics*. The distribution of the bank's loans in its major product lines, based on borrower characteristics, including, if applicable, the number and dollar amount of:

(i) Home mortgage loans to low-, moderate-, middle-, and upper-income individuals in the bank's assessment area(s);

(ii) Small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less in the bank's assessment area(s);

(iii) Small business and small farm loans by dollar amount at origination in the bank's assessment area(s); and

(iv) Consumer loans to low-, moderate-, middle-, and upper-income individuals in the bank's assessment area(s).

(4) *Community development lending*. The bank's community development loans, including the number and dollar amount of community development loans; and

(5) *Responsiveness*. The responsiveness of the bank's retail loans and community development loans in meeting community credit needs.

(c) *Affiliate lending*.

(1) At a bank's option, the FDIC will consider loans by an affiliate of the bank, if the bank provides data on the affiliate's loans pursuant to § 345.42.

(2) The FDIC considers affiliate lending subject to the following constraints:

(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase; and

(ii) If a bank elects to have the FDIC consider loans within a major product line made by one or more of the bank's affiliates in a particular assessment area, the FDIC will consider all the loans within that major product line in that particular assessment area made by all of the bank's affiliates.

(3) The FDIC does not consider affiliate lending in assessing a bank's performance under paragraph (b)(2)(i) of this section.

(d) *Lending by a consortium or a third party*. Community development loans originated or purchased by a consortium in which the bank participates or by a third party in which the bank has invested:

(1) Will be considered, at the bank's option, if the bank reports the data pertaining to these loans under § 345.42(b)(2); and

(2) May be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor:

(i) May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase; or

(ii) May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

(e) *Lending performance rating*. The FDIC rates a bank's lending performance as provided in appendix A to this part.

§ 345.23 Investment test.

(a) *Scope of test*. The FDIC evaluates a bank's record of meeting community credit needs by assessing community development investments and community development grants, as provided in this part.

(b) *Exclusion*. Activities considered under the lending or service tests may not be considered under the investment test.

(c) *Affiliate investment*. At a bank's option, the FDIC will consider, in its assessment of a bank's investment performance, a community development investment or community development grant made by an affiliate of the bank, if the community development investment or community development grant is not claimed by any other institution.

(d) *Disposition of branch premises*. Donating, selling on favorable terms, or making available on a rent-free basis a branch of the bank that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. 2907(b)) will be considered as a community development investment or community development grant.

(e) *Performance criteria*. The FDIC evaluates the investment performance of a bank pursuant to the following criteria:

(1) The dollar amount of community development investments and community development grants; and

(2) The responsiveness of the bank's community development investments and community development grants, including their complexity, to community credit needs.

(f) *Investment performance rating*. The FDIC rates a bank's investment performance as provided in appendix A to this part.

§ 345.24 Service test.

(a) *Scope of test*. The FDIC evaluates a bank's record of meeting community credit needs under the service test by assessing the bank's retail banking services and community development services, as provided in this part.

(b) *Affiliate service*. At a bank's option, the FDIC will consider, in its assessment of a bank's service performance, a community development service provided by an affiliate of the bank, if the community development service is not claimed by any other institution.

(c) *Performance criteria—retail banking services*. The FDIC evaluates the availability and effectiveness of a bank's systems for delivering retail banking services, pursuant to the following criteria:

(1) The current distribution of the bank's branches among low-, moderate-, middle-, and upper-income census tracts;

(2) In the context of its current distribution of the bank's branches, the bank's record of opening and closing branches, particularly branches located in low- or moderate-income census tracts or primarily serving low- or moderate-income individuals;

(3) The availability and effectiveness of alternative systems for delivering retail banking services (*e.g.*, RSFs, RSFs not owned or operated by or exclusively for the bank, interactive teller machines, banking by telephone, internet, or mobile banking, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income census tracts and to low- and moderate-income individuals; and

(4) The range and responsiveness of the credit services provided in low-, moderate-, middle-, and upper-income census tracts, including the degree to which the services are tailored to meet the credit needs of those census tracts.

(d) *Performance criteria—community development services*. The FDIC evaluates community development services pursuant to the following criteria:

(1) The extent to which the bank provides community development services; and

(2) The responsiveness of the bank's community development services, including their complexity, to community credit needs.

(e) *Service performance rating*. The FDIC rates a bank's service performance as provided in appendix A to this part.

§ 345.25 Community development test for wholesale or limited purpose banks.

(a) *Scope of test*. The FDIC assesses a wholesale or limited purpose bank's record of meeting community credit needs under the community development test by assessing its community development activities.

(b) *Designation as a wholesale or limited purpose bank*. (1) In order to receive a designation as a wholesale or limited purpose bank, a bank must file a request, in writing, with the FDIC, at least 90 days prior to the proposed effective date of the designation. If the FDIC approves the designation, it remains in effect until the bank requests revocation of the designation or until one year after the FDIC notifies the bank that it has revoked the designation on its own initiative.

(2) Notwithstanding paragraph (b)(1) of this section, an institution that was designated as a wholesale or limited purpose bank pursuant to this part or was comparably designated pursuant

to 12 CFR part 25 or 12 CFR part 228, as applicable, as of the date immediately prior to the date of a conversion may request that the FDIC maintain its designation after the conversion. The FDIC may approve the request to maintain the bank's designation in its sole discretion if the agency determines that it has the information necessary to make the determination.

(c) *Performance criteria*. The FDIC evaluates the community development performance of a wholesale or limited purpose bank pursuant to the following criteria:

(1) The number and dollar amount of the bank's community development activities; and

(2) The responsiveness of the bank's community development activities, including their complexity, to community credit needs.

(d) *Indirect activities*. At a wholesale or limited purpose bank's option, the FDIC will consider in its community development performance assessment:

(1) Community development investments, community development grants, or community development services provided by an affiliate of the bank, if the investments, grants, or services are not claimed by any other institution; and

(2) Community development loans by affiliates, consortia, and third parties, subject to the requirements and limitations in § 345.22(c) and (d).

(e) [Reserved]

(f) *Community development performance rating*. The FDIC rates a wholesale or limited purpose bank's community development performance as provided in appendix A to this part.

§ 345.26 Performance standards for small banks and intermediate banks.

(a) *Performance criteria* —(1) *Small banks*. The FDIC evaluates the record of a small bank in meeting community credit needs pursuant to the criteria set forth in paragraph (b) and (d) of this section.

(2) *Intermediate banks*. The FDIC evaluates the record of an intermediate bank in meeting community credit needs pursuant to the criteria set forth in paragraphs (b), (c), and (d) of this section.

(b) *Lending test*. A small bank's or intermediate bank's record of meeting community credit needs by assessing a bank's major product lines and other retail lending activities, as applicable, is evaluated pursuant to the following criteria:

(1) *Loan-to-deposit ratio*. The bank's loan-to-deposit ratio, adjusted for seasonal variation;

(2) *Lending in assessment area(s)*. The percentage of loans located in the bank's assessment area(s);

(3) *Borrower distribution*. The bank's record of lending to borrowers of different income levels and businesses and farms of different sizes in the bank's assessment area(s); and

(4) *Geographic distribution*. The geographic distribution of the bank's loans in the bank's assessment area(s).

(c) *Community development test*. An intermediate bank's community development performance also is evaluated pursuant to the following criteria:

(1) *Community development loans*. The number and dollar amount of community development loans;

(2) *Community development investments and community development grants*. The number and dollar amount of community development investments and community development grants; and

(3) *Community development services*. The extent to which the bank provides community development services.

(d) *Responsiveness*. The responsiveness of the intermediate bank's lending activities and community development activities, including their complexity, to community credit needs.

(e) *Small bank or intermediate bank performance rating*. The FDIC rates the performance of a bank evaluated under this section as provided in appendix A to this part.

§ 345.27 Strategic plan.

(a) *In general—(1) Evaluation*. The FDIC will evaluate a bank's record of meeting community credit needs under an approved strategic plan elected by the bank pursuant to paragraph (a)(2) of this section and as provided in paragraph (a)(2)(i) of this section.

(2) *Alternative election*. A bank may elect to have the FDIC agency evaluate its performance under a strategic plan if the:

(i) The bank has submitted the strategic plan to the FDIC for approval as provided for in this section;

(ii) The FDIC has approved the strategic plan; and

(iii) Strategic plan is in effect.

(3) *Treatment of affiliates*. Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution, including interim annual goals, if applicable. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.

(4) *Confidential information.* A bank may submit additional information to the FDIC on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the FDIC to judge the merits of the plan.

(5) *Data collection, reporting, and disclosure.* A bank's election to be evaluated under a strategic plan pursuant to paragraph (a)(2) of this section does not affect the applicability of the data collection, reporting, and disclosure provisions in § 345.42.

(b) *Content of a strategic plan.*

(1) *Plan requirements*. In order for a plan to be considered technically complete, as provided in paragraph (f) of this section, a bank must include in its strategic plan:

(i) A general description of the bank including discussion of its size, capital levels, branches, staffing levels, product lines, areas served, subsidiaries, affiliates, and its historical CRA performance;

(ii) The plan scope, as provided in paragraph (b)(2) of this section;

(iii) The plan term, as provided in paragraph (b)(3) of this section;

(iv) The assessment areas covered by the plan, as provided in paragraph (b)(4) of this section;

(v) Measurable goals, as provided in paragraph (b)(5) of this section, that meet the requirement for the provision of; satisfactory and outstanding measurable goals, as provided in paragraph (b)(6) of this section;

(vi) Any performance context factors, as provided in § 345.21(a)(5) or (b), that the bank considered in tailoring the scope of the strategic plan; and

(vii) A description of informal and formal efforts to seek suggestions from members of the public, as provided in paragraph (c) of this section, and a copy of any written public comments received.

(2) *Plan scope.* The strategic plan scope must address all three performance categories (*i.e.*, lending, investments, and services) in its strategic plan by—

(i) Specifying one or more measurable goal(s) for a performance category as provided in paragraph (b)(5) of this section;

(ii) Emphasizing lending and lending-related activities in the strategic plan, unless a different emphasis is responsive to the credit needs of the bank's assessment area(s), considering public comment and the bank's capacity and constraints, product offerings, and business strategy; and

(iii) Explaining, if applicable, how the exclusion of measurable goals for a performance category is supported by or consistent with the bank's performance context.

(3) *Plan Term*—A strategic plan may have a term of no more than five years.

(4) *Assessment areas*—(i) A strategic plan must include a description of the bank's assessment area(s) comprised of whole geographic areas (*e.g.*, an MSA, one or more metropolitan divisions, one or more contiguous counties, or one or more contiguous census tracts) that are covered by the strategic plan, delineated pursuant to § 345.41.

(ii) A bank with more than one assessment area may:

(A) Prepare a separate strategic plan for each assessment area; or

(B) Include multiple assessment areas in a single strategic plan.

(5) *Measurable goals*. In its strategic plan, a bank must specify measurable goal(s) for meeting the credit needs of each assessment area covered by the plan, including the needs of low- and moderate-income census tracts and low- and moderate-income individuals. A multi-year strategic plan must include annual interim measurable goals for each year in the plan term. A bank may also include measurable goals that span the entire plan term, which may differ from the aggregate of the bank's annual interim measurable goals.

(i) *Measurable goal requirements.* A measurable goal must have a:

(A) Performance measure (*e.g.*, percentage, number, dollar amount, or other quantifiable measure of a particular type of lending, investment, grant, or service); and

(B) Performance level (*i.e.*, the specific value for a performance measure, such as a set percentage of lending by dollar amount or number).

(ii) *Measurable goal rationale or support.* The strategic plan must provide the bank's rationale and support for the specified measurable goal(s).

(6) *Satisfactory and outstanding measurable goals*—(i) *Satisfactory measurable goals*. A bank must specify in its strategic plan measurable goals that constitute "satisfactory" performance.

(ii) *Outstanding measurable goals.* A bank may specify in its strategic plan measurable goals that constitute "outstanding" performance.

(c) *Public participation in plan development.* Before submitting a proposed strategic plan to the FDIC for approval under paragraph (e) of this section, a bank must

(1) Informally seek suggestions from members of the public in assessment area(s) covered by the plan to inform the development of a draft strategic plan;

(2) Formally solicit public comment on the draft strategic plan for at least 30 calendar days by:

(i) Publishing notice of the opportunity to comment on the bank's draft strategic plan in at least one newspaper of general circulation in each assessment area covered by the plan;

(ii) Making the draft strategic plan available to the public at no cost (reasonable fees may be charged to cover copying and mailing, if applicable); and

(iii) Providing the draft strategic plan to the FDIC, which will publish the plan on its public website and direct the public to send comments to the bank for consideration.

(3) The comment period will last at least 30 calendar days from the date of the latest publication under paragraph (c)(2) of this section.

(d) *Prefiling communications.* A bank may consult with the FDIC regarding its draft strategic plan prior to submitting the plan for approval under paragraph (e) of this section. The FDIC will provide the bank with preliminary feedback regarding the draft strategic plan, including whether the level of detail in the draft strategic plan is sufficient for the agency to evaluate the plan and the merits of the measurable goals in the draft strategic plan.

(e) *Submission of plan*—(1) Unless otherwise permitted by the FDIC the bank must submit its proposed strategic plan to the FDIC at least 90 calendar days prior to the proposed effective date of the plan.

(2) At the request of a bank, the FDIC, in its discretion may accept and review a proposed strategic plan submitted less than 90 calendar days prior to the proposed effective date of the plan.

(f) *Plan approval*—(1) *Notice of complete plan*—(i) The FDIC will notify the bank in writing when the agency determines that it has received a technically complete proposed strategic plan containing the information required in paragraph (b) of this section.

(ii) If the FDIC determines it has not received a technically complete proposed strategic plan from the bank, the FDIC will send a written communication within 14 calendar days of submission identifying the missing components of the plan.

(iii) Notwithstanding a notification in writing that a proposed strategic plan is technically complete, the FDIC may request additional information based on a material change in circumstances underlying the proposed plan.

(2) *Review period.* The FDIC will act upon a proposed strategic plan within 60 calendar days after the date of the technically complete notice, unless the FDIC extends the review period for good cause. If the FDIC:

(i) Does not act within the review period, the plan will be deemed approved at the end of the review period.

(ii) Approves a proposed strategic plan after the plan's proposed effective date, the plan will be effective on the date of approval.

(3) *Criteria for evaluating a proposed strategic plan.* The FDIC evaluates a proposed strategic plan's measurable goals using the following criteria, as appropriate:

(i) The extent and breadth of lending, including, as appropriate, the distribution of loans among different census tracts, businesses and farms of different sizes, and individuals of different income levels;

(ii) The extent of community development lending, and the responsiveness of lending practices to community credit needs;

(iii) The responsiveness, including complexity, of the bank's community development investments and community development grants to community credit needs;

(iv) The availability and effectiveness of the bank's systems for delivering retail banking services and the responsiveness, including complexity, of the bank's community development services; and

(v) Consideration of performance context as provided in § 345.21(b).

(4) *Publication of approved plan*. The FDIC will publish an approved strategic plan on its website, excluding the confidential information described in paragraph (a)(4) of this section.

(g) *Plan denial*—(1) *Reasons*. The FDIC may deny a bank's request to be evaluated under a strategic plan for any of the following reasons:

(i) The proposed strategic plan's measurable goals do not adequately address the credit needs of the assessment area(s) covered by the plan as evaluated under the criteria described in paragraph (f)(3) of this section;

(ii) The proposed strategic plan's measurable goals are not consistent with the safe and sound operations of the bank;

(iii) The bank did not comply with the public participation process described in paragraph (c) of this section;

(iv) The proposed strategic plan otherwise fails to meet the requirements of this section; or

(v) The bank fails to provide information to the FDIC necessary to reach an informed decision on the plan.

(2) *Resubmission*. After denial of a proposed strategic plan, the bank may resubmit an updated plan that addresses the basis of the denial to the FDIC. Unless the FDIC determines otherwise in writing, the same review process, including the review period described in paragraph (f)(2) of this section will apply to resubmission of a proposed strategic plan.

(h) *Plan amendment.* During the term of a plan:

(1) A bank may request the FDIC review an amendment to an approved strategic plan based on a material change in circumstances. A material change in circumstances may include a merger or consolidation, a change in the bank's assessment area(s), a change in the bank's business strategy, or a change in institutional capacity or constraints that serve as an impediment to the bank's ability to achieve a satisfactory level of performance.

(2) The FDIC may require, in its sole discretion, the bank to develop an amendment to an approved strategic plan in accordance with any of the process requirements of this section, based on the extent of the amendments to the plan.

(i) *Plan assessment*—(1) In evaluating a bank's performance under an approved strategic plan, the FDIC considers performance context as provided in § 345.21(b) and assesses performance as provided in appendix A to this part.

(2) The FDIC will evaluate a bank's performance under an approved strategic plan based on the entire plan term at the end of the plan. This evaluation will include consideration of the bank's performance on its annual interim measurable goals as well as any measurable goal for the entire plan term.

(3) If a bank's strategic plan includes both satisfactory and outstanding measurable goals:

(i) The FDIC will consider the bank eligible for an "outstanding" rating; and

(ii) If the bank fails to achieve one or more of its outstanding measurable goals, the FDIC will consider community development activities conducted by the bank that were not assessed in connection with any measurable goal in determining whether to consider the measurable goals to be substantially met for purposes of eligibility for an "outstanding" rating.

(j) *Converting institutions*. For institutions that have engaged in a conversion (*e.g.*, from a national bank to a State bank or vice versa) while operating under an approved strategic plan, the FDIC will assess performance under a strategic plan approved by another agency if the FDIC determines the approval was consistent with the requirements of this section and no amendments are necessary pursuant to paragraph (h)(2) of this section.

(k) *Use of standard performance tests if satisfactory goals not substantially met*. If a bank fails to substantially meet its plan goals for a "satisfactory" rating, the FDIC will evaluate the bank's performance under the otherwise applicable performance tests or standards, as appropriate.

§ 345.28 Assigned ratings.

(a) *Ratings in general*. Subject to paragraphs (b) and (c) of this section, the FDIC assigns to a bank a rating of "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance" based on the bank's performance under the lending, investment and service tests; the community development test for wholesale or limited purpose banks; the small bank and intermediate bank performance standards; or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests*. The FDIC assigns a rating for a bank assessed under the lending, investment, and service tests in accordance with the following principles:

(1) A bank that receives an "outstanding" rating on the lending test receives an assigned rating of at least "satisfactory";

(2) A bank that receives an "outstanding" rating on both the service test and the investment test and a rating of at least "high satisfactory" on the lending test receives an assigned rating of "outstanding"; and

(3) No bank may receive an assigned rating of "satisfactory" or higher unless it receives a rating of at least "low satisfactory" on the lending test.

(c) *Effect of evidence of discriminatory or other illegal credit practices*.

(1) The FDIC's evaluation of a bank's CRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any census tract by the bank or in any assessment area by any affiliate whose loans have been considered as part of the bank's lending performance. In connection with any type of lending activity described in § 345.22(a), evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes:

(i) Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act or the Fair Housing Act;

(ii) Violations of the Home Ownership and Equity Protection Act;

(iii) Violations of section 5 of the Federal Trade Commission Act;

(iv) Violations of section 8 of the Real Estate Settlement Procedures Act;

(v) Violations of the Truth in Lending Act provisions regarding a consumer's right of rescission;

(vi) Violations of section 1031 of the Dodd-Frank Wall Street Reform and Consumer Protection Act;

(vii) Violations of the Military Lending Act; and

(viii) Violations of the Servicemembers Civil Relief Act.

[OPTION A FOR PARAGRAPH (c)(2)]

(2) The evidence of discriminatory and other illegal credit practices described in paragraph (c)(1) of this section must be a violation of a law, rule, or regulation cited in a public enforcement action taken by a Federal or State agency or judicial order to which a Federal or State agency is a party.

[OPTION B FOR PARAGRAPH (c)(2)]

(2) The evidence of discriminatory and other illegal credit practices described in paragraph (c)(1) of this section must be a violation of a Federal or State law, rule, or regulation cited by a Federal or State agency or in a judicial order to which a Federal or State agency is a party. If the citation is confidential supervisory information, the agencies will not disclose such information in the public section of the CRA Performance Evaluation.

(3) In determining the effect of evidence of practices described in paragraph (c)(1) of this section on the bank's assigned ratings, the FDIC considers

(i) The policies and procedures that the bank (or affiliate, as applicable) has in place to prevent the practices;

(ii)Any corrective action that the bank (or affiliate, as applicable) has taken or has committed to take, including voluntary corrective action resulting from self-assessment; and

(iii) Any other relevant information.

§ 345.29 Effect of CRA performance on applications.

(a) *CRA performance*. Among other factors, the FDIC takes into account the record of performance under the CRA of each applicant bank in considering an application for approval of:

(1) The establishment of a domestic branch or other facility with the ability to accept deposits;

(2) The relocation of the main office or a branch;

(3) The merger, consolidation, acquisition of assets, or assumption of liabilities; and

(4) Deposit insurance for a newly chartered financial institution.

(b) *New financial institutions*. A newly chartered financial institution must submit with its application for deposit insurance a description of how it will meet its CRA objectives. The FDIC takes the description into account in considering the application and may deny or condition approval on that basis.

(c) *Interested parties*. The FDIC takes into account any views expressed by interested parties that are submitted in accordance with the applicable comment procedures in considering CRA performance in an application listed in paragraphs (a) and (b) of this section.

(d) *Denial or conditional approval of application*. A bank's record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

Subpart C—Records, Reporting, and Disclosure Requirements

§ 345.41 Assessment area delineation.

(a) *In general*. A bank must delineate one or more assessment areas within which the FDIC evaluates the bank's record of meeting the credit needs of its community. The FDIC does not evaluate the bank's delineation of its assessment area(s) as a separate performance criterion, but the FDIC reviews the delineation for compliance with the requirements of this section.

(b) *Geographic area(s) for wholesale or limited purpose banks*. The assessment area(s) for a wholesale or limited purpose bank must consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank has its main office or home office, as applicable; staffed, non-temporary branches that are available and accessible to the public; and deposit-taking RSFs that are available and accessible to the public.

(c) *Geographic area(s) for other banks*. The assessment area(s) for a bank other than a wholesale or limited purpose bank must:

(1) Consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns; and

(2) Include the census tracts in which the bank has its main office or home office, as applicable; staffed, non-temporary branches that are available and accessible to the public; deposit-taking RSFs; and the surrounding census tracts in which the bank has originated or purchased a substantial portion of its loans in its major product lines.

(d) *Adjustments to geographic area(s)*. A bank may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. 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.

(e) *Limitations on the delineation of an assessment area*. Each bank's assessment area(s):

(1) Must consist only of whole census tracts;

(2) May not reflect illegal discrimination;

(3) May not arbitrarily exclude low- or moderate-income census tracts, taking into account the bank's size and financial condition; and

(4) May not extend substantially beyond an MSA boundary or beyond a State boundary unless the assessment area is located in a multistate MSA. If a bank serves a geographic area that extends substantially beyond a State boundary, the bank must delineate separate assessment areas for the areas in each State. If a bank serves a geographic area that extends substantially

beyond an MSA boundary, the bank must delineate separate assessment areas for the areas inside and outside the MSA.

(f) *Military banks*. Notwithstanding the requirements of this section, a military bank may delineate the entire United States and its territories as its sole assessment area.

(g) *Use of assessment area(s)*. The FDIC uses the assessment area(s) delineated by a bank in its evaluation of the bank's CRA performance unless the FDIC determines that the assessment area(s) do not comply with the requirements of this section

§ 345.42 Data collection, reporting, and disclosure.

(a) *Information required to be collected and maintained*. (1) A large bank must collect, and maintain in machine readable form (as prescribed by the FDIC) until the completion of its next CRA examination, the following data for each small business or small farm loan originated or purchased by the bank:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The dollar amount at origination;

(iii) The loan location; and

(iv) An indicator whether the loan was to a business or farm with gross annual revenues of $1 million or less.

(2) A large bank must collect, and maintain in machine-readable form (as prescribed by the FDIC) for each calendar year until the completion of its next CRA examination, the following data for each community development loan originated or purchased or community development investment or community development grant made by the bank:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan, investment or grant;

(ii) The name of the recipient;

(iii) The dollar amount of the loan, investment, or grant;

(iv) The address of the recipient;

(v) The community development activity location;

(vi) An indicator whether the loan or investment involves complexity;

(vii) An indicator of the loan, investment, or grant's community development purpose; and

(viii) An indicator whether the activity is a loan, investment or grant.

(3) A large bank must collect and maintain until the completion of its next CRA examination, the following data for each community development grant made by the bank:

(i) The recipient's written commitment to use the funds for specific projects, programs, or initiatives, in the bank's assessment area(s);

(ii) The recipient's written attestation that the recipient's indirect costs for administering the grant or donation will not exceed 15 percent, calculated consistent with the Uniform Guidance for Federal Awards, 2 CFR Part 200, or a comparable standard; and

(iii) Documentation provided by the recipient supporting the attestation under paragraph (a)(3)(ii) of this section, including IRS Form 990 (Return for Tax Exempt Organizations) with annual operating and program budgets.

(4) A large bank that has consumer lending as a major product line pursuant to § 345.21(g) must collect and maintain in machine-readable form (as prescribed by the FDIC) until the completion of its next CRA examination data, the following data for each consumer loan originated or purchased by the bank:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The dollar amount at origination or purchase;

(iii) The loan location; and

(iv) The gross annual income of the borrower that the bank considered in making its credit decision.

(b) *Information required to be reported*. A large bank, must report annually by March 1 to the FDIC in machine readable form (as prescribed by the FDIC) the following data for the prior calendar year:

(1) *Small business and small farm loan data*. For each census tract in which the bank originated or purchased a small business or small farm loan, the aggregate number and dollar amount of loans:

(i) With a dollar amount at origination of $100,000 or less;

(ii) With a dollar amount at origination of more than $100,000 but less than or equal to $250,000;

(iii) With a dollar amount at origination of more than $250,000; and

(iv) To businesses and farms with gross annual revenues of $1 million or less (using the revenues that the bank considered in making its credit decision);

(2) *Community development data*. (i) The aggregate number and aggregate dollar amount of community development loans originated or purchased; and

(ii) For each community development grant the—

(A) Recipient of the grant;

(B) Recipient's street address; and

(C) Dollar amount of the grant.

(3) *Home mortgage loans*. If the bank is subject to reporting under part 1003 of this title, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank has a home or branch office (or outside any MSA) in accordance with the requirements of part 1003 of this title.

(c) *Other loan data*. At its option, a bank may provide other information concerning its lending performance, including additional loan distribution data.

(d) *Data on affiliate lending*. A bank that elects to have the FDIC consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, must collect, maintain, and report for those loans the data that the bank would have collected, maintained, and reported pursuant to paragraphs (a), (b), and (c) of this section had the loans been originated or purchased by the bank. For home mortgage loans, the bank must also be prepared to identify the home mortgage loans reported under part 1003 of this title by the affiliate.

(e) *Data on lending by a consortium or a third party*. A bank that elects to have the FDIC consider community development loans originated or purchased by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan, must report for those loans the data that the bank would have reported under paragraph (b)(2) of this section had the loans been originated or purchased by the bank.

(f) *Small banks and intermediate banks electing evaluation under the lending, investment, and service tests*. A bank that qualifies for evaluation under the small bank or intermediate bank performance standards but elects evaluation under the lending, investment, and service tests in §§ 345.22 through 345.24 must collect, maintain, and report the data required for other banks pursuant to paragraphs (a) and (b) of this section.

(g) *Assessment area data*. A large bank must collect and report to the FDIC by March 1 of each year a list for each assessment area showing the geographies within the area.

(h) *Determination to not require data based on specific circumstances.* Based on a bank's particular facts and circumstances, upon written request the FDIC may exempt a bank from one or more of the requirements to collect, maintain, or report data under paragraphs (a) through (f) of this section if the FDIC determines that the data are not necessary for evaluating the bank's performance or more than minimally useful to the agencies' overall data collection.

(i) *CRA Disclosure Statement.* The FDIC prepares annually for each bank that reports data pursuant to this section a CRA Disclosure Statement that contains, on a State-by-State basis:

(1) For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the bank reported a small business or small farm loan:

(i) The number and dollar amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income census tracts;

(ii) A list grouping each census tract according to whether the census tract is low-, moderate-, middle-, or upper-income;

(iii) A list showing each census tract in which the bank reported a small business or small farm loan; and

(iv) The number and dollar amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(2) For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 persons in which the bank reported a small business or small farm loan:

(i) The number and dollar amount of small business and small farm loans reported as originated or purchased located in census tracts with median income relative to the area median income of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(ii) A list grouping each census tract in the county or assessment area according to whether the median income in the census tract relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(iii) A list showing each census tract in which the bank reported a small business or small farm loan; and

(iv) The number and dollar amount of small business and small farm loans to businesses and farms with gross annual revenues of $1 million or less;

(3) The number and dollar amount of small business and small farm loans located inside each assessment area reported by the bank and the number and dollar amount of small business and small farm loans located outside the assessment area(s) reported by the bank; and

(4) The number and dollar amount of community development loans reported as originated or purchased.

(j) *Aggregate disclosure statements*. The FDIC, in conjunction with the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency, prepares annually, for each MSA or metropolitan division (including an MSA or metropolitan division that crosses a State boundary) and the nonmetropolitan portion of each State, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting under this part or parts 25, 195, or 228 of this title. These disclosure statements indicate, for each census tract, the number and dollar amount of all small business and small farm loans originated or purchased by reporting institutions, except that the FDIC may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

(k) *Central data depositories*. The FDIC makes the aggregate disclosure statements, described in paragraph (j) of this section, and the individual bank CRA Disclosure Statements, described in paragraph (i) of this section, available to the public at central data depositories. The FDIC publishes a list of the depositories at which the statements are available.

§ 345.43 Content and availability of public file.

(a) *Information available to the public*. A bank must maintain a public file that includes the following information:

(1) All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's performance in meeting community

credit needs, and any response to the comments by the bank, if neither the comments nor the responses contain statements that reflect adversely on the character or integrity of any persons other than the bank or publication of which would violate specific provisions of law;

(2) A copy of the public section of the bank's most recent CRA Performance Evaluation prepared by the FDIC. The bank must include this copy in the public file within 60 business days after its receipt from the FDIC, unless the timing is otherwise extended by the FDIC;

(3) A list of the bank's branches, their street addresses, and census tracts;

(4) A list of branches opened or closed by the bank during the current year and each of the prior two calendar years, their street addresses, and census tracts;

(5) A list of services (including hours of operation, available credit products, and transaction fees) generally offered at the bank's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank may include information regarding the availability of alternative systems for delivering retail banking services (*e.g.*, RSFs, RSFs not owned or operated by or exclusively for the bank, interactive teller machines, banking by telephone, internet, or mobile banking, loan production offices, and bank-at-work or bank-by-mail programs);

(6) A map of each assessment area showing the boundaries of the area and identifying the census tracts contained within the area, either on the map or in a separate list; and

(7) Any other information the bank chooses.

(b) *Additional information available to the public* —

(1) *Large banks*. A bank, except a small bank or intermediate bank or a bank that was a small bank or intermediate bank during the prior calendar year, must include in its public file the following information pertaining to the bank and its affiliates, if applicable, for each of the prior two calendar years:

(i) If the bank has consumer loans considered under the lending test as a major product line, for each category of its consumer loans, the number and dollar amount of loans:

(A) To low-, moderate-, middle-, and upper-income individuals;

(B) Located in low-, moderate-, middle-, and upper-income census tracts; and

(C) Located inside the bank's assessment area(s) and outside the bank's assessment area(s); and

(ii) The bank must include the statement in the public file within three business days of its receipt from the FDIC. The bank must also indicate that the bank's CRA Disclosure Statement is available on the Federal Financial Institutions Examination Council's website.

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data*. A bank required to report home mortgage loan data pursuant to part 1003 of this title must include in its public file a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) website at *www.consumerfinance.gov/hmda.* In addition, a bank that elected to have the FDIC consider the mortgage lending of an affiliate must include in its public file the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's website. The bank must include the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

(3) *Small banks and intermediate banks*. A small bank or an intermediate bank (or a bank that was a small bank or an intermediate bank during the prior calendar year) must include in its public file:

(i) The bank's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and

(ii) The information required for other banks by paragraph (b)(1) of this section, if the bank has elected to be evaluated under the lending, investment, and service tests.

(4) *Banks with strategic plans*. A bank that has been approved to be assessed under a strategic plan must include in its public file a copy of that plan. A bank need not include information submitted to the FDIC on a confidential basis in conjunction with the plan.

(5) *Banks with less than satisfactory ratings*. A bank that received a less than satisfactory rating during its most recent examination must include in its public file a description of its current efforts to improve its performance in meeting the credit needs of its entire community. The bank must update the description quarterly.

(c) *Location of public information*. A bank must make available to the public for inspection at no cost the information required in this section on the bank's website, or a website maintained on behalf of the bank.

(d) *Copies*. Upon request, a bank must provide copies, either on paper or in digital form acceptable to the person making the request, of the information in its public file. The bank may charge a reasonable fee not to exceed the cost of copying and mailing (if not provided in digital form).

(e) *Updating*. Except as otherwise provided in this section, a bank must ensure that the information required by this section is current as of April 1 of each year.

§ 345.44 Public notice by banks.

(a) *CRA notice*. A bank must provide on the bank's website, or a website maintained on behalf of the bank, the appropriate CRA notice set forth in appendix B to this part. As provided in paragraphs (b) and (c) of appendix B to this part and where indicated by the bracketed text, a bank must insert the

(1) Sentences in paragraph (b) of appendix B to this part, as applicable.

(2) Paragraph in paragraph (c) of appendix B to this part, if the bank has branches.

(b) *Public disclosure of the CRA notice*. In the public lobby of its main office or home office, as applicable, and each of its staffed, non-temporary branches that are available and accessible to the public, a bank must display a written notice, in printed or digital form, that provides that the institution's CRA notice may be viewed on the bank's website, or a website maintained on behalf of the bank.

§ 345.45 Publication of planned examination schedule.

The FDIC publishes at least 30 days in advance of the beginning of each calendar quarter a list of banks scheduled for CRA examinations in that quarter.

Appendix A to Part 345—Ratings

(a) *Ratings in general*.

(1) The FDIC evaluates a bank's performance and assigns a rating for each State and multistate MSA as provided in 12 U.S.C. 2906(d) and for the bank under the applicable performance tests or standards in this part, in accordance with §§ 345.21 and 345.28.

(2) A bank's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Banks evaluated under the lending, investment, and service tests* —

(1) *Lending performance rating*. The FDIC assigns each bank's lending performance one of the five following ratings based on its major product lines and community development loans, as applicable.

(i) Outstanding. The FDIC rates a bank's lending performance "outstanding" if, in general, it demonstrates:

(A) An excellent record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A substantial majority of its loans in major product lines are made in its assessment area(s);

(C) An excellent geographic distribution of loans in major product lines in its assessment area(s);

(D) An excellent distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Extensive use of responsive lending practices, including loans in major product lines and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It is a leader in making community development loans.

(ii) *High satisfactory*. The FDIC rates a bank's lending performance "high satisfactory" if, in general, it demonstrates:

(A) A good record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A high percentage of its loans in major product lines are made in its assessment area(s);

(C) A good geographic distribution of loans in major product lines in its assessment area(s);

(D) A good distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Use of responsive lending practices, including loans in major product lines and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made a relatively high level of community development loans.

(iii) *Low satisfactory*. The FDIC rates a bank's lending performance "low satisfactory" if, in general, it demonstrates:

(A) An adequate record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) An adequate percentage of its loans in major product lines are made in its assessment area(s);

(C) An adequate geographic distribution of loans in major product lines in its assessment area(s);

(D) An adequate distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Limited use of responsive lending practices, including loans in major product lines and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made an adequate level of community development loans.

(iv) *Needs to improve*. The FDIC rates a bank's lending performance "needs to improve" if, in general, it demonstrates:

(A) A poor record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines, in its assessment area(s);

(B) A small percentage of its loans in major product lines are made in its assessment area(s);

(C) A poor geographic distribution of loans in major product lines, particularly to low- or moderate-income census tracts, in its assessment area(s);

(D) A poor distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) Little use of responsive lending practices, including loans in major product lines and community development loans in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made a low level of community development loans.

(v) *Substantial noncompliance*. The FDIC rates a bank's lending performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) A very poor record of meeting the community credit needs in its assessment area(s), taking into account the number and dollar amount of loans in major product lines in its assessment area(s);

(B) A very small percentage of its loans in major product lines are made in its assessment area(s);

(C) A very poor geographic distribution of loans in major product lines, particularly to low- or moderate-income census tracts, in its assessment area(s);

(D) A very poor distribution of loans in major product lines among individuals of different income levels and businesses (including farms) of different sizes;

(E) No use of responsive lending practices, including retail loans and community development loans, in a safe and sound manner to address the credit needs of low- or moderate-income individuals or census tracts; and

(F) It has made few, if any, community development loans.

(2) *Investment performance rating*. The FDIC assigns each bank's investment performance one of the five following ratings.

(i) *Outstanding*. The FDIC rates a bank's investment performance "outstanding" if, in general, it demonstrates:

(A) An excellent level of community development investments or community development grants, often in a leadership position; and

(B) Excellent responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(ii) *High satisfactory*. The FDIC rates a bank's investment performance "high satisfactory" if, in general, it demonstrates:

(A) A significant level of community development investments or community development grants, occasionally in a leadership position; and

(B) Good responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(iii) *Low satisfactory*. The FDIC rates a bank's investment performance "low satisfactory" if, in general, it demonstrates:

(A) An adequate level of community development investments or community development grants, although rarely in a leadership position; and

(B) Adequate responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(iv) *Needs to improve*. The FDIC rates a bank's investment performance "needs to improve" if, in general, it demonstrates:

(A) A poor level of community development investments or community development grants; and

(B) Poor responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(v) *Substantial noncompliance*. The FDIC rates a bank's investment performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) Few, if any, community development investments or community development grants; and

(B) Very poor responsiveness of community development investments or community development grants, including their complexity, to community credit needs.

(3) *Service performance rating*. The FDIC assigns each bank's service performance one of the five following ratings.

(i) *Outstanding*. The FDIC rates a bank's service performance "outstanding" if, in general, the bank demonstrates:

(A) Its service delivery systems are readily accessible to census tracts and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income census tracts or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income census tracts or low- or moderate-income individuals;

(D) It is a leader in providing community development services; and

(E) Excellent responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(ii) *High satisfactory*. The FDIC rates a bank's service performance "high satisfactory" if, in general, the bank demonstrates:

(A) Its service delivery systems are accessible to census tracts and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income census tracts and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income census tracts and low- and moderate-income individuals;

(D) It provides a relatively high level of community development services; and

(E) Good responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(iii) *Low satisfactory*. The FDIC rates a bank's service performance "low satisfactory" if, in general, the bank demonstrates:

(A) Its service delivery systems are reasonably accessible to census tracts and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income census tracts and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income census tracts and low- and moderate-income individuals;

(D) It provides an adequate level of community development services; and

(E) Adequate responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(iv) *Needs to improve*. The FDIC rates a bank's service performance "needs to improve" if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income census tracts or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income census tracts or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), particularly low- or moderate-income census tracts or low- or moderate-income individuals;

(D) It provides a limited level of community development services; and

(E) Poor responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(v) *Substantial noncompliance*. The FDIC rates a bank's service performance as being in "substantial noncompliance" if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to significant portions of its assessment area(s), particularly to low- or moderate-income census tracts or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income census tracts or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area(s), particularly low- or moderate-income census tracts or low- or moderate-income individuals;

(D) It provides few, if any, community development services; and

(E) Very poor responsiveness of community development and retail banking services, including their complexity, to community credit needs.

(c) *Wholesale or limited purpose banks*. The FDIC assigns each wholesale or limited purpose bank's community development performance one of the four following ratings.

(1) *Outstanding*. The FDIC rates a wholesale or limited purpose bank's community development performance "outstanding" if, in general, it demonstrates:

(i) A high level of community development activities; and

(ii) Excellent responsiveness of community development activities to community credit needs in its assessment area(s).

(2) *Satisfactory*. The FDIC rates a wholesale or limited purpose bank's community development performance "satisfactory" if, in general, it demonstrates:

(i) An adequate level of community development activities; and

(ii) Adequate responsiveness of community development activities to community credit needs in its assessment area(s).

(3) *Needs to improve*. The FDIC rates a wholesale or limited purpose bank's community development performance as "needs to improve" if, in general, it demonstrates:

(i) A poor level of community development activities; and

(ii) Poor responsiveness of community development activities to community credit needs in its assessment area(s).

(4) *Substantial noncompliance*. The FDIC rates a wholesale or limited purpose bank's community development performance in "substantial noncompliance" if, in general, it demonstrates:

(i) Few, if any, community development activities; and

(ii) Very poor responsiveness of community development activities to community credit needs in its assessment area(s).

(d) *Banks evaluated under the performance standards for small banks and intermediate banks* —

(1) *Lending test ratings* —

(i) *Eligibility for a satisfactory lending test rating*. The FDIC rates a small bank's or intermediate bank's lending performance "satisfactory" if, in general, the bank demonstrates:

(A) A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's size, financial condition, the credit needs of its assessment area(s);

(B) A majority of its loans are in its assessment area(s);

(C) A reasonable distribution of loans to individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes given the demographics of the bank's assessment area(s); and

(D) A reasonable geographic distribution of loans given the bank's assessment area(s).

(ii) *Eligibility for an "outstanding" lending test rating*. A small bank or intermediate bank that meets each of the standards for a "satisfactory" rating under this paragraph and exceeds some or all of those standards may warrant consideration for a lending test rating of "outstanding."

(iii) *Needs to improve or substantial noncompliance ratings*. A small bank or intermediate bank may also receive a lending test rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standard for a "satisfactory" rating.

(2) *Community development test ratings for intermediate banks* —

(i) *Eligibility for a satisfactory community development test rating*. The FDIC rates an intermediate bank's community development performance "satisfactory" if the bank demonstrates adequate responsiveness to the community development needs of its assessment area(s) through community development activities. The adequacy of the bank's response will depend on its capacity for such community development activities, its assessment area's need for such community development activities, and the availability of such opportunities for community development in the bank's assessment area(s).

(ii) *Eligibility for an outstanding community development test rating*. The FDIC rates an intermediate bank's community development performance "outstanding" if the bank demonstrates excellent responsiveness to community development needs in its assessment area(s) through community development activities, as appropriate, considering the bank's capacity and the need and availability of such opportunities for community development in the bank's assessment area(s).

(iii) *Needs to improve or substantial noncompliance ratings*. An intermediate bank may also receive a community development test rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.

(3) *Overall rating* —

(i) *Eligibility for a satisfactory overall rating*. No intermediate bank may receive an assigned overall rating of "satisfactory" or better unless it receives a rating of at least "satisfactory" on the lending test.

(ii) *Eligibility for an outstanding overall rating*.

(A) An intermediate bank that receives an "outstanding" rating on one test and at least "satisfactory" on the other test may receive an assigned overall rating of "outstanding."

(B) A small bank that meets each of the standards for a "satisfactory" rating under the lending test and exceeds some or all of those standards may warrant consideration for an overall rating of "outstanding." In assessing whether a bank's performance is "outstanding," the FDIC considers the extent to which the bank exceeds each of the performance standards for a "satisfactory" rating; its performance in conducting community development activities; and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

(iii) *Needs to improve or substantial noncompliance overall ratings*. A small bank or an intermediate bank may also receive a rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standards for a "satisfactory" rating.

(e) *Strategic plan assessment and rating* —

(1) *Satisfactory goals*. The FDIC approves as "satisfactory" measurable goals that adequately meet the credit needs of the bank's assessment area(s).

(2) *Outstanding measurable goals*. If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as "satisfactory," the FDIC will approve those goals as "outstanding."

(3) *Rating*. (i) The FDIC assesses the performance of a bank operating under an approved strategic plan to determine if the bank has met its plan goals:

(A) If the bank substantially achieves its plan goals for a satisfactory rating, the FDIC will rate the bank's performance under the plan as "satisfactory."

(B) If the bank exceeds its plan goals for a “satisfactory” rating and substantially achieves its plan goals for an outstanding rating, the FDIC will rate the bank’s performance under the plan as “outstanding.”

(C) If the bank fails to meet substantially its plan goals for a “satisfactory” rating, the FDIC will evaluate the bank’s performance, as provided in § 345.27(k).

Appendix B to Part 345—CRA Notice

(a) *Notice for a bank’s website or website maintained on behalf of a bank.*

Community Reinvestment Act Notice

Under the Federal Community Reinvestment Act (CRA), the Federal Deposit Insurance Corporation (FDIC) evaluates our record of meeting the credit needs of our communities consistent with safe and sound operations. The FDIC also takes this record into account when deciding on certain applications submitted by us.

Your Involvement is Encouraged.

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent CRA Performance Evaluation, prepared by the FDIC; and comments received from the public relating to our performance in meeting community credit needs, as well as our responses to those comments. You may review this information on this website.

[Insert paragraph in paragraph (c) of Appendix B to this part, as appropriate] If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

At least 30 days before the beginning of each quarter, the FDIC publishes a nationwide list of the banks that are scheduled for CRA examination in that quarter. This list is available from the Regional Director, FDIC at [website address]. You may contact us for information about how you can send comments about our performance in meeting community credit needs. Additionally, you may send comments electronically through the FDIC’s website at *www.fdic.gov/regulations/cra.* Your comments, together with any response by us, will be considered by the FDIC in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the FDIC Regional Director. You may also request from the FDIC Regional Director an announcement of our applications covered by the CRA filed with the FDIC. [Insert sentence(s) in paragraph (b) of appendix B to this part, as appropriate]

(b) *Insured State nonmember bank that is an affiliate of a holding company—Last sentences of the notice.*

(1) *An insured State nonmember bank that is an affiliate of a holding company must include the first sentence in brackets in its notice. An insured State nonmember bank must include the second sentence in brackets only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional banks*

[We are an affiliate of [name of holding company], a bank holding company. You may request from the [title of responsible official], Federal Reserve Bank of [__][address] an announcement of applications covered by the CRA filed by bank holding companies.]

(c) *Notice for banks with branch offices*. *For banks with one or more branch offices the CRA notice provided on the bank's website or a website maintained on the bank's behalf must include the following sections, as applicable, in the section of the notice titled "Your Involvement is Encouraged"*

You may review today the public section of our most recent CRA evaluation, prepared by the FDIC, and a list of services provided at our branch[es]. You also have access to the following additional information on this website: (1) A map showing the assessment area[s] containing our branch[es], which are the area[s] in which the FDIC evaluates our CRA performance in [this community][our communities]; (2) information about our branches in [this assessment area][our assessment areas]; (3) a list of services we provide at those locations; (4) data on our lending performance in [this assessment area][our assessment areas]; and (5) copies of all written comments received by us that specifically relate to our CRA performance in [this assessment area][each of our assessment areas], and any responses we have made to those comments.

Appendix C—Methodologies

(a) *Calculating product line share of retail lending by dollar volume and loan count.*

The agencies are adopting a methodology for determining each retail product line's share of total retail lending using a combination of dollar volume and loan count. Each retail lending product line's share is calculated as the average of: (1) its share calculated using loans measured in dollar volume; and (2) its share calculated using loans measured in number of loans.

For example—

A bank's retail lending in an assessment area includes the following:

150 home mortgage loans, with a total dollar volume of $25 million,

175 small business loans, with a total dollar volume of $18 million, and

45 small farm loans, with a total dollar volume of $10 million.

Calculation 1.

The share of the bank's retail lending in the assessment in the home mortgage lending loan product area using dollar volume would be calculated as follows:

$25 million (from home mortgage loans), divided by the sum of

$25 million (from home mortgage loans), $18 million (from small business loans) and $10 million (from small farm loans).

$25 million divided by ($25 million + $18 million + $10 million) =

$25 million divided by $53 million =

0.472, which can be stated as 47.2 percent.

The bank's home mortgage lending constitutes 47.2 percent of its retail lending in the assessment area, calculated by dollar volume.

Calculation 2.

The share of the bank's retail lending in the assessment in the home mortgage lending loan product area using loan count would be calculated as follows:

150 loans (from home mortgage loans), divided by the sum of

150 loans (from home mortgage loans), 175 loans (from small business loans) and 45 loans (from small farm loans).

150 loans divided by (150 loans + 175 loans + 45 loans) =

150 divided by 370 =

0.405, which can be stated as 40.5 percent.

The bank's home mortgage lending constitutes 40.5 percent of its retail lending in the assessment area, calculated by loan count.

To determine the bank's home mortgage lending loan product's share of retail lending in the assessment area using a combination of dollar volume and loan count, we calculate the average of the results from calculation 1) and calculation 2):

(0.472 + 0.405) / 2 =

0.877 / 2 =

0.439, which can be stated as 43.9 percent.

The bank's home mortgage lending loan product's share of retail lending in the assessment area, calculated using a combination of dollar volume and loan count, is 43.9 percent.

(b) *Calculation of the distribution of a bank's deposits in each of its assessment areas.*

This calculation uses the dollar volume of deposits the bank reports in the Summary of Deposits data in each of its branches, which are aggregated to calculate the dollar volume of deposits the bank reports in each of its assessment areas.[293] A bank that has only one assessment area will have 100 percent of its deposits assigned to that one assessment area. For a bank with multiple assessment areas, the calculation will proceed as follows:

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[293] The Summary of Deposits data is updated annually and published by the FDIC at *https://banks.data.fdic.gov/bankfind-suite/SOD/branchOffice*.

A bank has a total of $4 billion in deposits reported the Summary of Deposits, allocated across 10 branches, which are distributed across three assessment areas:

Assessment area 1:

Branch A: $2 billion in deposits

Branch B: $350 million in deposits

Branch C: $230 million in deposits

Assessment area 2:

Branch D: $200 million in deposits

Branch E: $250 million in deposits

Branch F: $200 million in deposits

Branch G: $200 million in deposits

Assessment area 3:

Branch H: $220 million in deposits

Branch I: $200 million in deposits

Branch J: $150 million in deposits

The total dollar volume of the bank's deposits associated with each assessment area will be the sum of the dollar volume of the bank's deposits assigned in the Summary of Deposits data to the branches in each of its assessment areas, which, using the example above, would be calculated as follows:

Assessment area 1:

$2 billion + $350 million + $230 million = $2.580 billion

Assessment area 2:

$200 million + $250 million + $200 million + $200 million = $850 million

Assessment area 3:

$220 million + $200 million + $150 million = $570 million

The percentage of the bank's deposits allocated to each assessment area would be calculated as follows:

Assessment Area 1:

$2.580 billion / $4 billion = 0.645 or 64.5 percent

Assessment Area 2:

$850 million / $4 billion = 0.213 or 21.3 percent

Assessment Area 3:

$570 million / $4 billion = 0.143 or 14.3 percent

PART 346—DISCLOSURE AND REPORTING OF CRA-RELATED AGREEMENTS

13. The authority citation for part 346 continues to read as follows:

Authority: 12 U.S.C. 1831y.

§ 346.4 [Amended]

14. Amend § 346.4 by:

a. In paragraph (a)(2)(i), removing "§ 345.22 of appendix G to 12 CFR part 345" and adding in its place "§ 345.22 of this chapter".

b. In paragraph (a)(2)(ii), removing "§ 345.23 of appendix G to 12 CFR part 345" and adding in its place "§ 345.23 of this chapter".

c. In paragraph (a)(2)(iii), removing "§ 345.24(d) of appendix G to 12 CFR part 345" and adding in its place "§ 345.24(c) of this chapter".

d. In paragraph (a)(2)(iv), removing "§ 345.24(e) of appendix G to 12 CFR part 345" and adding in its place "§ 345.24(d) of this chapter".

e. In paragraph (a)(2)(v), removing "§ 345.25(c) of appendix G to 12 CFR part 345" and adding in its place "§ 345.25(c) of this chapter".

f. In paragraph (a)(2)(vi), removing "§ 345.26(a) of appendix G to 12 CFR part 345" and adding in its place "§ 345.26(a) of this chapter".

g. In paragraph (a)(2)(vii), removing "§ 345.27(f) of appendix G to 12 CFR part 345" and adding in its place "§ 345.27 of this chapter".

§ 346.6 [Amended]

15. Amend § 346.6(b)(7) by removing "§ 345.43 of appendix G to 12 CFR part 345" and adding in its place "§ 345.43 of this chapter".

§ 346.11 [Amended]

16. Amend § 346.11(d) by removing "§ 345.43 of appendix G to 12 CFR part 345" and adding in its place "§ 345.43 of this chapter".

Jonathan V. Gould,
Comptroller of the Currency.

Federal Deposit Insurance Corporation.
By order of the Board of Directors.
Dated at Washington, DC on July 31, 2026.
Jennifer M. Jones,
Deputy Executive Secretary.

BILLING CODE: 4810-33-P; 6714-01-P

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