Interagency Questions and Answers Regarding Community Reinvestment

Presented by the FRB, FDIC, and OCC

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Agenda

• Overview
• Revised and new Q&As regarding community reinvestment
• Revised examination procedures for large institutions
• Questions
Overview

- Response to comments and issues raised during:
  - 2010 public hearings
  - Other outreach
  - Examinations
- Concern that community development (CD) activities are undervalued
- Additional guidance to clarify and promote CD activities was warranted

Community Development Defined

- Affordable housing for low- or moderate-income individuals;
- Community services targeted to low- or moderate-income individuals;
- Activities that promote economic development by financing small businesses or small farms;
- Activities that revitalize or stabilize low- or moderate-income areas; designated disaster areas; or underserved or distressed nonmetropolitan middle-income areas; and
- Loans, investments, and services that support, enable, or facilitate Neighborhood Stabilization Program (NSP) eligible activities in designated target areas.

Issues Prompting Change

- Inconsistent application of guidance during the evaluation process
  - Activities in the broader statewide or regional area (BSRA) that includes the assessment area (AA)
  - Investments in nationwide funds
  - CD lending
  - CD services
  - Qualified investments
- Requests to clearly define “regional area”
Five Revised Q&As

• §.12(h)–6: Activities in the BSRA
• §.12(h)–7: Meaning of “regional area”
• §.23(a)–2: Investments in nationwide funds
• §.12(g)(2)–1: Community services
• §.12(i)–3: CD services

Two New Q&As

• §.12(t)–9: Qualified investments
• §.22(b)(4)–2: CD lending

One Redesignated Q&A

• §.12(g)–4 to §.21(f)–1: Activities with minority and women-owned financial institutions and low-income credit unions

§.12(h)–6 CD Activities in the BSRA

• CD activities in the BSRA that includes the bank’s AA(s) are considered
• CD activities that will not benefit the bank’s AA(s) may enhance the bank’s performance if the bank is responsive to CD needs and opportunities in its AA(s)
  – Responsiveness is a concept reflected throughout the regulations
  – Provides a flexible standard for determining consideration

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How CD Activities in the BSRA are Considered

Always considered
- Direct benefit to AA(s)
- Purpose, mandate, or function to serve the AA(s)

May be considered
- If the bank has been responsive to the needs and opportunities in its AA(s) – Activities that do not serve and will not benefit the AA(s)

Examples: Activity with purpose, mandate, or function to serve the AA(s)

<table>
<thead>
<tr>
<th>Activity</th>
<th>Coverage</th>
<th>Initial level considered during evaluation</th>
<th>Performance Evaluation (PE)</th>
<th>Comments</th>
<th>Shown in tables (when used)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Technical Assistance to CD organization</td>
<td>AA</td>
<td>AA conclusion</td>
<td>Discussed at AA level</td>
<td>AA line</td>
<td></td>
</tr>
<tr>
<td>Investment in Native American Community Development Financial Institutions (CDFI)</td>
<td>Indian Lands in Western NY State</td>
<td>State rating</td>
<td>Discussed at state level</td>
<td>Separate line for state activity</td>
<td></td>
</tr>
<tr>
<td>Investment in Regional Small Business Investment Corporation (SBIC)</td>
<td>Multiple states within a region</td>
<td>Institution rating</td>
<td>Discussed at institution level</td>
<td>Separate line for regional activity</td>
<td></td>
</tr>
</tbody>
</table>

Example 1: The bank has defined the Buffalo metropolitan statistical area (MSA) as its AA, and bank offers technical assistance in its AA.
Example 2: The bank makes an investment in a Native American CDFI. The CDFI serves Indian territory within the bank’s AA and home state.

Example 3: The bank makes a qualified investment in an SBIC that serves the Great Lakes Region, including the bank’s AA.

Responsiveness to AA(s)

Examiners will:

- Assess responsiveness to needs and opportunities
- Include activities with direct benefit
- Include activities with a purpose, mandate, or function that includes serving the AA(s), even if the specific activity does not benefit the AA(s)
- Always consider performance context
Examples: Activity has no purpose, mandate, or function to serve the AA(s)

<table>
<thead>
<tr>
<th>Activity</th>
<th>Geographic Coverage</th>
<th>Initial level considered during evaluation</th>
<th>PE Comments</th>
<th>Shown in tables (when used)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loan related to Low Income Housing Tax Credit (LIHTC) project</td>
<td>In state: no impact on AA</td>
<td>State level</td>
<td>May be considered at state level if bank has been responsive to needs and opportunities in its AA</td>
<td>Separate line for state activity</td>
</tr>
<tr>
<td>Investment in Housing Finance Authority</td>
<td>Adjacent state</td>
<td>Institution level</td>
<td>May be considered at institution level if bank has been responsive to needs and opportunities in its AA</td>
<td>Separate line for regional activity</td>
</tr>
</tbody>
</table>

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Example 1: The bank makes a loan related to a LIHTC project within the state, but that will not benefit the bank’s AA.

Example 2: The bank makes a qualified investment in the Pennsylvania State Housing Finance Authority which benefits multiple communities outside of the bank’s home state, but within the broader regional area.
§12(h)–7 Regional Area

- Interstate or intrastate area
- Common interdependencies
  - Geographic
  - Economic
  - Demographic
- Commonly accepted delineations
  - “Tri-county area”
  - “Mid-Atlantic states”
- Often defined by geographic scope and purpose of CD organization or initiative

Examples: Regional Area

- Appalachian region:
  - Defined in authorizing legislation for the Appalachian Regional Commission
- The Carolinas:
  - Commonly recognized and used by organizations that serve both North and South Carolina
- Delta region:
  - Counties and parishes in 8 states: Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee

§23(a)–2 Qualified Investments in Nationwide Funds

- Important sources of investments in low- and moderate-income and underserved communities
- Investments must meet geographic requirements
- AA(s) are the primary focus of Community Reinvestment Act (CRA) evaluation
- Documentation is not required for consideration
- Side letters and earmarking are still permissible
- Artificial or arbitrary allocations to assessments are not acceptable
Examples: Qualified Investments in Nationwide Funds

<table>
<thead>
<tr>
<th>Branch Footprint</th>
<th>Documentation Provided</th>
<th>Initial Level Considered during Evaluation</th>
<th>PE Comments</th>
<th>Shown in Tables (when used)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nationwide</td>
<td>None</td>
<td>Institution level</td>
<td>Overall bank rating</td>
<td>Separate line for nationwide activity</td>
</tr>
<tr>
<td>Three contiguous states</td>
<td>Documentation showing direct benefit to one AA</td>
<td>AA level</td>
<td>AA conclusion</td>
<td>AA line</td>
</tr>
<tr>
<td>One state</td>
<td>No documentation to demonstrate investment benefits AA or BSRA</td>
<td>Not considered</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

§ 12(g)(2)—1 Community Services Targeted to Low- or Moderate-Income Individuals

- Two proxies were added for determining whether beneficiaries are low- or moderate-income
  - Majority of students receive free or reduced-price meals
  - Services are targeted to individuals who receive or are eligible to receive Medicaid
- Proxies for low- or moderate-income also include recipients of government assistance programs with income restrictions equal to or more strict than the definition of low- or moderate-income under CRA

§ 12(i)—3 CD Services

- Added additional examples of technical assistance that can be provided to CD organizations which qualify as CD services
  - Service on the board of directors of CD organizations
  - Providing services reflecting employee’s area of expertise at the institution
New Q&A: §__.12(t)–9 Certain Types of Qualified Investments

- Consideration given for dollar amount that benefits an organization or activity with a primary purpose of CD
  - Excludes consideration of the face value of the investment if only the yield, or a portion of the investment, is used to fund CD activity
- However, the full amount is considered if:
  - Organization has a bona fide intent to deploy funds for a CD purpose, or
  - Funds are used to leverage and increase the organization’s capacity to lend or provide other CD services

Examples: Qualified Investments

<table>
<thead>
<tr>
<th>Type of Activity</th>
<th>Primary Purpose of CD</th>
<th>Amount Considered</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1 million investment in a CDFI</td>
<td>Nonprofit intermediary with a CD mission</td>
<td>$1 million</td>
</tr>
<tr>
<td>Proceeds from $1 million bank loan to a nonprofit are invested in Treasury securities. Interest paid on securities funds the CD program.</td>
<td>Targeted program has a primary purpose of CD, but receives only interest from the non-qualifying investment</td>
<td>Interest paid to support CD program in bank’s AA</td>
</tr>
</tbody>
</table>

New Q&A: §__.22(b)(4)–2 CD Lending

- CD lending is always a factor in evaluating performance under the large bank lending test
- Record of CD lending may have a positive, neutral, or negative impact on the large bank lending test rating
- Considered in context of business model and community needs and opportunities in AA(s) or the BSRA
- Strong retail lending performance may compensate for weak CD lending performance and vice versa
- Preamble notes that there is not a mandate to lend in all AA(s)
Examination Procedures

- Interagency Large Institution CRA Examination Procedures issued April 18, 2014
- Only those sections related to CD activities and ratings are revised
- Appendix breaks out:
  - Initial level where activity is considered (AA, state, institution)
  - Where activity will be discussed in the PE
  - How data will be shown in the PE tables (when used)

Examples: Appendix to Examination Procedures

<table>
<thead>
<tr>
<th>Activity</th>
<th>Bank Footprint</th>
<th>Area activity serves</th>
<th>Initial level considered during evaluation</th>
<th>PE Comment</th>
<th>Shown in tables (when used)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government National Mortgage Association security</td>
<td>Single state</td>
<td>Projects are primarily in the bank’s state</td>
<td>Not considered as the security does not have a CD primary purpose</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Investment in regional CRA fund</td>
<td>Two states: bank requests pro-rata allocation of investment in AA(s) based on deposits</td>
<td>AA(s) plus two additional states</td>
<td>Institution level: Not discussed at AA level unless direct benefit to AA</td>
<td>Overall bank rating</td>
<td>Separate line for regional activity</td>
</tr>
</tbody>
</table>

Summary

- In determining responsiveness, examiners will consider activities in the BSRA that serve the AA(s), even if the specific activity does not benefit the AA(s).
- If the bank has been responsive to their AA(s), examiners will also consider activities in the BSRA that neither benefit nor serve the AA(s).
- Regional areas typically have some economic, geographic, or demographic interdependencies, or there may be commonly accepted delineations.
- Geographic requirements always apply, including institutions that have a minimal branch presence and a nationwide business focus.
Summary (continued)

• For investments in which only the income supports community development, examiners will consider only the income.
• Examiners will consider performance context when evaluating a bank’s CD lending.
• Banks may use proxies described in the Q&A to determine whether beneficiaries of CD services are low- or moderate-income, and may need to demonstrate the income qualifications of other proxies they propose.
• The performance evaluation addresses activities at the AA, state, multistate MSA, or institution level based on area served by the organization or activity.
• Investments will be recognized where benefit accrues rather than by arbitrary methods to allocate benefit to individual AA(s) or states.

Resources

• Interagency Revised CRA Examination Procedures http://www.ffiec.gov/cra/examinations.htm#EX_PROCEDURES
• FDIC http://www.ffiec.gov/regulations/community/community/index.html
• FRB http://www.federalreserve.gov/communitydev/cra_about.htm
• OCC http://www.occ.gov/topics/compliance-bsa/cra/index-cra.html
• FFIEC http://www.ffiec.gov/cra

Questions?