

LIBRARY

JUL 28 1989

FEDERAL DEPOSIT INSURANCE CORPORATION

TESTIMONY OF

Janice M. Smith  
Director  
Office of Consumer Affairs

FEDERAL DEPOSIT INSURANCE CORPORATION  
WASHINGTON, D.C.

ON

THE COMMUNITY REINVESTMENT ACT

BEFORE THE

SUBCOMMITTEE ON CONSUMER AND REGULATORY AFFAIRS  
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS  
UNITED STATES SENATE

2:00 p.m.  
July 31, 1989  
Dirksen Senate Office Building

FDIC  
SUMMARY OF TESTIMONY  
ON  
THE COMMUNITY REINVESTMENT ACT  
July 31, 1989

The FDIC regularly examines about 9,000 State-chartered nonmember banks for compliance with applicable consumer protection laws, including the CRA. Our goal is to examine banks rated 1, 2 or 3 for compliance at least every 24 months and 4 and 5 rated banks at least every 12 months, with visitations conducted as necessary. We conducted 1,228 compliance examinations in 1986, 2,242 in 1987, and 3,066 in 1988.

Compliance examinations are conducted by examiners who have received both formal and on-the-job training. Each of our eight Regional Offices have staff dedicated to the consumer compliance area. A Consumer Compliance Coordinator has been assigned to each of our 94 field offices and compliance details are required of all commissioned and assistant examiners.

The FDIC evaluates banks on a case by case basis using CRA examination procedures which were developed on an interagency basis. These procedures include assessment factors which are outlined in Part 345 of the FDIC's Rules and Regulations.

The FDIC rates banks in accordance with the Uniform Interagency CRA Assessment Rating System. About 98% of all FDIC-supervised banks examined for CRA compliance have been assigned satisfactory or better ratings. It should be emphasized that a CRA rating is an assessment of a bank's performance record over time. While individual instances of noncompliance are taken into account, a rating reflects a more comprehensive view of a bank's performance.

The FDIC uses examination ratings to summarize a bank's performance. It is a subjective judgment used for supervisory purposes. The FDIC does provide its ratings and the open section of examination reports to institutions under its supervision. For banks filing CRA-covered applications with the FDIC, a summary assessment of CRA performance is prepared and included in a public file at the applicant bank and appropriate FDIC Regional Office.

The FDIC may take various actions if noncompliance with the CRA is established, including: unsatisfactory ratings, memoranda of understanding, application denials, and ultimately a cease and desist order. Progressively more stringent administrative action is taken until compliance is achieved.

FDIC policy provides that examiners should make outside contacts during regular compliance examinations when necessary to assess a bank's performance in meeting community credit needs under the CRA. Community groups and other interested parties are also encouraged to contact the FDIC and banks on an ongoing basis concerning CRA and other consumer issues.

The FDIC publishes notices of applications in local newspapers. Each Regional Office also maintains mailing lists for weekly notification of applications filed. Comments received concerning CRA-related issues are considered during specified time periods. Extensions of comment periods may be granted for good cause.

The FDIC also considers complaints and inquiries in evaluating banks. During 1988, the FDIC's Office of Consumer Affairs and Regional Offices reported approximately 39,400 telephone calls for information and assistance, only 331 of which involved community reinvestment matters. Of 3,600 written complaints and inquiries only 20 involved CRA-related issues.

We do not believe public notice of CRA examinations would be practical. Public comments may not be received by the examiner prior to completion of the examination and at times examinations have to be rescheduled. Interested parties are encouraged to submit comments on an ongoing basis and not only when an examination takes place. Publication of CRA examination dates could discourage interim comments.

Good afternoon, Mr. Chairman and members of the Subcommittee. I am pleased to offer the views of the Federal Deposit Insurance Corporation on various matters related to the Community Reinvestment Act "CRA".

### Introduction

The FDIC has worked hard since enactment of the CRA in 1977 to enforce the Act's mandate. The objective is to encourage financial institutions to help meet local community credit needs, including those of low and moderate income neighborhood residents, consistent with the institutions' safe and sound operation. The FDIC performs its role primarily through effective supervision and regulation of insured state chartered, non-member banks. We administer a compliance program by which FDIC-supervised banks are regularly examined, evaluated and rated for compliance with the CRA and other consumer protection laws and regulations.

Today's testimony focuses on areas of particular interest to the Committee as outlined in the Chairman's letter dated July 6, 1989. These areas are discussed in the order of the questions presented in the letter.

#### 1. Examination for Compliance with CRA

The FDIC administers a comprehensive consumer compliance examination program. FDIC-supervised institutions, numbering about 9,000, are regularly examined, evaluated and rated on their compliance with all pertinent consumer protection laws. The FDIC completed 1,228 compliance examinations in 1986, 2,242 in 1987 and 3,066 in 1988. We estimate the total number of compliance examinations for 1989 will be at about the same level as 1988. Banks are examined more frequently if they are rated less than satisfactory in CRA or overall compliance performance under the FDIC's examination policy. The goal is to examine banks rated 4 and 5 for compliance at least every 12 months, and banks rated 1, 2, or 3 at least every 24 months, with visitations conducted as necessary.

The trend in number of FDIC compliance examinations over the past three years is upward, even though the FDIC has had to devote significant resources to safety and soundness banking problems and, beginning in February 1989, to its interim supervisory role under President Bush's savings-and-loan rescue plan. In the future, we anticipate further progress in our compliance examination program.

In the CRA examination process, examiners evaluate banks on a case-by-case basis taking into account their size, expertise and location. Community credit needs often differ based on the characteristics of each local community. The FDIC uses CRA examination procedures (Attachment 1) which were developed on an interagency basis. These procedures include the assessment factors outlined in Part 345 of the Corporation's regulations. The assessment factors include but are not limited to: activities conducted by the bank to ascertain the credit needs of its communities and the bank's marketing of its services; the types of loans made; the impact of the opening or closing of any offices and the services offered at these facilities; the bank's compliance with anti-discrimination and other credit laws; and the bank's participation in community development in order to meet local credit needs.

CRA is functionally integrated with other FDIC fair lending examination procedures. These include the Fair Housing Act (FHA), Home Mortgage Disclosure Act (HMDA), and the Equal Credit Opportunity Act (ECOA).

The use of HMDA data by FDIC examiners is important to help determine the possible existence of CRA and fair housing compliance problems. The HMDA Statement is generally considered a reliable indicator of the number and dollar amount of mortgage loans extended in a bank's lending area.

At times, a bank's HMDA Statement may reveal a disproportionately low number of loans in low or moderate income areas relative to other areas in the community. If this is found, examiners investigate further into the reasons for such patterns. Although a HMDA statement alone may not be sufficient to support violations of the CRA or other fair lending laws, a disproportionate lending pattern could serve as a basis for a less than satisfactory CRA rating.

The following list highlights some of the items which are used to evaluate CRA and fair lending compliance:

- The bank's public comment file
- Consumer complaints concerning the bank
- CRA Statements
- Actual CRA-related efforts undertaken by the bank
- The bank's loan, investment, and procedural manuals
- The community delineation and any supporting documents
- Previous compliance and safety and soundness examination reports
- Records regarding efforts to communicate with members of the bank's lending community, especially low and moderate income residents
- Fair housing monitoring information and log-sheets
- Aggregate and individual bank HMDA data
- Records of any special efforts to help meet the deposit service needs of low and moderate income residents, such as the offering of "lifeline accounts"
- All records of the bank's advertising efforts and content
- Adverse action notices (denials, terminations, or withdrawals), with special emphasis on protected groups and residents of low and moderate income neighborhoods

Examiners also evaluate efforts undertaken by banks to address the recommendations contained in the revised Statement of the Federal Financial Supervisory Agencies Regarding CRA, adopted by the FDIC in March of this year.

The credit needs of the community which a bank serves are determined in a variety of ways. HMDA data are used to ascertain the number and dollar amounts, and location of home loans made, which serve as a performance indicator. Market analyses undertaken by the bank are reviewed and local plans for communities and neighborhoods are also used when available. Credit needs may be determined by communicating with special interest and public service

organizations (both public and private), particularly those who work with low and moderate income neighborhoods. The extent of the bank's efforts to communicate with members of its community regarding the credit services it provides is also reviewed as is the involvement by the bank with real estate brokers, business opportunities brokers, and others who service low and moderate income neighborhoods.

Actual hours spent on CRA examinations may relate more to the type of bank (e.g., commercial vs. savings bank, wholesale vs. retail) than to asset size. For special CRA examinations which are conducted in response to a bank application or a protest, the number of hours expended may be higher than average. The following Table shows the average number of hours spent per examination on CRA compliance matters:

Average Hours Expended Per Examination on CRA  
from 1985 through 1988 by Asset Size of Bank

<u>Average Hours</u> <u>Per Exam</u>	<u>\$0-50 million</u>	<u>\$50-100 million</u>	<u>\$100-500 million</u>	<u>Over \$500</u>
1985	4 1/2	6	10 1/2	24 1/2
1986	5	6 1/2	8	29
1987	5	5 1/2	8	16 1/2
1988	5	6 1/2	9	22

## 2. The FDIC's Examination Force

There is a total of 1,956 FDIC field examiners (as of 5/31/89), most of whom have received CRA training. The FDIC has at least one Consumer Affairs and Civil Rights (CA/CR) Review Examiner in each of its eight regional offices. These examiners coordinate the FDIC's compliance efforts and are directly involved in examiner training. They also provide liaison with consumer and community groups and assistance to banks in assessing issues of community interest.

The FDIC's Division of Bank Supervision is further strengthening compliance examination and enforcement efforts. A Consumer Compliance Coordinator has been selected for each of our 94 field offices. These are commissioned examiners with compliance expertise. Some of the duties of the Coordinator are to:

- Conduct, or assist in, compliance examinations and visitations; and meet with bank boards of directors in problem or unusual situations;
- Review, as necessary, certain compliance examination reports (e.g. compliance problems or unusual situations) prior to submission to the Regional Office;
- Oversee and coordinate responses to consumer complaints and inquiries;
- Conduct supplementary compliance training for examiners and serve as an instructor for Regional Office and the Division's Training Center compliance training programs;

- Serve on Regional Office details and other assignments pertaining to the consumer compliance area.

To become commissioned, FDIC examiners must have passed a rigorous evaluation in the areas of safety and soundness and compliance generally after 3-6 years of on the job experience. Assistant examiners may, at times, be assigned to perform less complex compliance tasks primarily involving banks rated 1 and 2. FDIC policy is to assign its most experienced examiners and those who have specialized in the field of compliance examination to examine 3, 4, and 5 rated banks and to handle complex compliance matters. On-site CRA complaint and protest investigations are also assigned to these examiners.

The FDIC's CRA examination and investigation staff training is provided primarily in four ways. First, the FDIC's Division of Bank Supervision Training Center administers the Corporation's Consumer Protection School (CPS). Most CPS attendees are examiners with a minimum of two years bank supervision experience.

The following table provides data related to the CPS:

Year	Total Number of Sessions	Length of Each Session	Total # of FDIC Students	Hours of Fair Lending Training Per Session			
				CRA	FHA	ECOA	HMDA
1989	*8	5	--	-	-	-	-
1988	6	5	117	2	3	5	1
1987	4	5 Days	62	2	2	3	1
1986	3	8 Days	39	3.5	2	5	2

\* Sessions scheduled for year.

Second, a two-hour overview of consumer protection and civil rights laws is included in the advanced training school for assistant examiners.

Third, the Office of Consumer Affairs also annually conducts a 2-3 day compliance seminar for Regional CA/CR Review Examiners and their assistants and/or field examiners. These Review Examiners also provide compliance training for their respective regional examination staffs. In addition, an advanced one week training program is being developed with approximately two days allocated to the CRA and related laws. The first session is scheduled for late 1989 and should be attended by 40-50 of our 94 regional field office Consumer Compliance Coordinators. These Coordinators will then provide training to regional examiners.

Fourth, in addition to formal training, regular compliance and CRA training is conducted on-site by senior field examiners. Our Regional Office staff keeps these examiners updated on all pertinent information relating to the scope of work assigned to them, including CRA-related information.

### 3. Assignment and Use of CRA Ratings

The FDIC rates banks in accordance with the Uniform Interagency CRA Assessment Rating System (Attachment 2). The ratings range from 1 to 5, with one being the best.

The aggregate CRA ratings assigned for examinations conducted during each of the past five years are as follows:

Year:	CRA Ratings			
	1	2	3	4 and 5
1984	252	1,549	31	8
1985	98	947	22	3
1986	115	1,086	19	1
1987	221	1,965	40	8
1988	307	2,683	58	12

Note: Excludes Special Purpose Banks and Trust Companies not engaged in lending.

Recent statistics indicate that about 98 percent of all FDIC-supervised banks examined for CRA compliance were assigned satisfactory ratings, *i.e.*, a 1 or 2. It should be emphasized that a CRA rating is an assessment of a bank's performance record over time. While individual instances of technical noncompliance are taken into account, ratings reflect a more comprehensive view of a bank's performance.

CRA ratings are based on performance. FDIC examiners evaluate compliance with the CRA on the basis of each bank's (1) attempt to ascertain, (2) determination to help meet, and (3) performance in helping to meet community credit needs in the context of an individual bank's resources and local circumstances. Examiners discuss their findings regarding the bank's CRA performance with bank management. Examiners also provide appropriate CRA-related information and technical assistance at that time, thereby helping banks to understand the purposes of the CRA and the FDIC's enforcement role. Overall, we believe our CRA enforcement efforts have been effective. This view is based on the large number of banks which are assigned a satisfactory or higher CRA rating, (*i.e.*, a 1 or 2), the low number of CRA consumer complaints and protests we have received, and the few comments found in public files of FDIC-supervised banks relating to their CRA statement or CRA performance.

Banks find that noncompliance can lay the groundwork for CRA protests and complaints against them resulting in costly processing delays and possible denials of applications. Our overall experience, with few exceptions, has been that once a problem is brought to a bank's attention timely steps are taken to correct the deficiencies.

#### 4. Citizen and Community Participation

FDIC policy provides that examiners should make the following outside contacts during regular compliance examinations when necessary to assess the bank's performance in meeting community credit needs under the CRA:

- Any person or organization that has, in a CRA comment to the public file, specifically requested to speak to an examiner;

- Any person or organization that has raised a substantial issue in a CRA comment letter which requires further explanation and/or verification -- such persons or organizations should be contacted even where they have not made a specific request for a meeting; and
- A representative sample of persons or organizations with whom the lender has said it communicated -- this form of outside contact would normally be made only in circumstances where there is a need to independently verify the lender's performance in ascertaining local credit needs.

Examiners are advised to make whatever other outside contacts are likely to provide valuable information concerning either the credit needs of the bank's community, its efforts to ascertain those needs and make known its credit services, or its efforts to meet those needs. Among the persons or organizations to be contacted, for example, might be local government community development officials who would normally be expected to have useful information concerning the types of development or redevelopment programs available in a community and the extent of the bank's participation.

The public may call the FDIC's Office of Consumer Affairs or Regional Offices during normal business hours, or write, with a complaint or inquiry. The Office of Consumer Affairs has a toll free number which, along with the agency's address, is well-publicized nationally in newspapers and public interest organization newsletters. In addition, FDIC's outreach efforts include representation at conferences or seminars sponsored by community and industry groups, where the attendees are encouraged to write and/or call whenever there is a perceived problem. During 1988, the FDIC's Office of Consumer Affairs and our Regional Offices reported approximately 39,400 telephone calls for information and assistance. Of this number, only 331 calls involved community reinvestment matters. In 1988, OCA and the Regional Offices processed nearly 3,600 written complaints and inquiries, only twenty of which involved CRA-related issues. The latter figure is consistent with prior years.

Community groups and other interested parties may learn about CRA covered applications filed with the FDIC through notices published in local newspapers for the convenience of the banking public. Interested parties may also learn about such applications for geographic area(s) of special interest by placing their names on Regional Office mailing lists for weekly notification.

The minimum processing time for relocation applications is 21 days, for mergers 30 days, and for all other applications, 15 days. The FDIC will delay processing if legitimate, substantive issues are raised which may have merit. Extensions of from 15 to 30 days may be granted in order to allow for submission of more detailed documentation or evidence.

The FDIC encourages interested parties to comment on applications within the time periods specified. This is important because timely comment allows the FDIC to carry out its responsibility to process applications within applicable time limits consistent with the public interest. Processing delays can be costly to banks and delay service to the community.

As part of the application process, community groups and other interested parties can request a public proceeding. The FDIC Regional Director decides whether to hold a public proceeding based on how much new information is likely to be gained from the process. Concurrence of the Washington Office is required if the Regional Director's decision is to deny a request for such a proceeding. Protests and complaints filed alleging CRA violations are not always concerned with CRA issues. Sometimes misunderstandings arise as to what is germane to the CRA and the FDIC's responsibilities in enforcing the CRA.

We have been successful in conducting informal proceedings with banks and community groups, and thereby have generally been able to resolve major differences between the parties without materially delaying the application process. Our goal, when presented with a CRA protest, is to encourage the parties to meet, discuss and satisfactorily resolve differences.

All CRA-related allegations are addressed in a formal statement accompanying the FDIC's order to approve or deny an application. These documents are available to the public for review. Where an application has been protested, the FDIC also sends a letter to the protestants explaining the action taken.

We believe that it is important to have regular dialogue with representatives from both community and consumer groups and the banking industry. Our outreach efforts include periodic meetings whereby community groups and consumer protection and civil rights organizations have an opportunity to meet with the Chairman and senior Corporation staff for an exchange of views on community reinvestment and other consumer and community-related issues. In addition, the FDIC conducts compliance seminars for bankers in various parts of the country, at which CRA concerns and other consumer-related laws and regulations are addressed.

##### 5. Application Decisions

Monitoring and enforcing bank compliance with the CRA mandate is a critical component in the FDIC's evaluation of bank applications for deposit facilities. In making decisions on such applications, the FDIC gives due consideration to the bank's CRA performance record in all cases, not just when a protest has been filed. Action must be taken by the Director or Associate Director of the FDIC's Division of Bank Supervision where the requirements of CRA have yet to be favorably resolved (reflected by a 4 or 5 rating, or possibly a 3) or where a CRA protest has been filed. Applications may be submitted to the Board of Directors in these cases. The FDIC must resolve all statutory factors in determining whether or not the application will be approved.

Commitments for future action may be offered by the applicant as a means of assuring a stronger CRA record or resolving existing CRA issues. Such commitments are not viewed as part of the CRA record of performance of the bank, but may be given weight as an indicator of potential for improvement in the institution's performance. However, commitments made in the applications process cannot be used to overcome a seriously deficient record of CRA performance.

Where appropriate, the FDIC may require banks to take specific actions designed to improve CRA performance by granting conditional approval of an application. In such cases, approval granted by the FDIC generally becomes effective or final only after confirming that the bank has satisfied the appropriate conditions.

#### 6. CRA Protests

The FDIC received no CRA-related application protests in 1984, two in 1985 (against two banks), two in 1986 (against two banks), nine in 1987 (against seven banks), five in 1988 (against five banks), and one (against one bank) thus far in 1989. During the past five years, no applications have been denied based on CRA factors, one has been conditionally approved, 14 have been approved without conditions, and two were withdrawn. In addition, we received six written complaints and inquiries in 1986, eight in 1987, twenty in 1988 and five so far in 1989. Investigations of each CRA complaint revealed no patterns or practices of discrimination. Also, FDIC examiners have found very few CRA comment letters in bank public files.

Since the Act's inception, the FDIC has denied three applications for deposit facilities due to CRA factors. The rate of application denials on CRA grounds, however, should not be given undue weight in assessing the FDIC's enforcement of the CRA. CRA-related problems often are corrected by banks at the request of the FDIC, prior to our action on an application. The incidence of such preapproval corrections has not been aggregated. Also, applications are sometimes withdrawn by applicants when it becomes clear that denial is likely.

The following table reflects actions on nonprotested CRA-covered applications for the years 1984 through the first half of 1989:

	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1989</u>	<u>1st half</u> <u>1989</u>
Approved	1,580	1,402	1,515	1,750	1,801	839
Denied	21	12	8	10	4	1

The length of time it takes to process nonprotested applications ranges from an average of 30 days for branches and relocations to 111 days for deposit insurance. For protested applications, the average ranges from 40 days for relocations to 198 days for merger applications.

#### 7. Supervisory Enforcement Actions

FDIC sanctions for noncompliance with the CRA include: unsatisfactory ratings, memoranda of understanding, application denials, and ultimately, a cease and desist order. Progressively more stringent administrative action is normally taken until compliance is achieved.

Examples of FDIC supervisory actions taken outside the application process against institutions not in compliance with the CRA are attached (Attachment 3). These include memoranda of understanding and a section 8(b) Cease and Desist Order.

Compliance with the terms of supervisory CRA-related enforcement actions and with commitments made in conjunction with a CRA covered application is enforced through visitations and through routine bank examinations by FDIC examiners. Whenever deficiencies are found in a bank's performance, they are pointed out and the bank is encouraged to promptly make appropriate corrections.

The FDIC does not enforce agreements made between the banks it supervises and groups or other interested parties. However, evidence presented that the agreement has been adhered to by the institution will be considered when assessing its record in meeting local credit needs.

#### 8. Public Disclosure of CRA Ratings and Examination Reports

In regard to the public disclosure of CRA ratings and examination reports, we believe the release could:

- Deter open and frank discussions between a financial institution and its regulator;
- Have an adverse effect on institutions which have compliance problems but are trying to correct them; and
- Cause institutions to use the ratings and examination findings as an endorsement standard in advertising.

Community groups and other interested parties can monitor an institution's performance by obtaining the CRA statement, the HMDA data, interviewing consumers and meeting with bank personnel. In addition, summary CRA assessments are part of the public file for applications submitted to the FDIC and are provided to the public upon request.

The FDIC uses examination ratings to summarize a bank's performance. The ratings reflect a subjective judgment and are used for supervisory purposes only. The FDIC, FRB and the OCC do release aggregate CRA performance ratings to the public through the Federal Financial Institutions Examination Council (FFIEC). The FDIC also provides its ratings and the open section of examination reports to institutions under its supervision.

As an alternative to the public disclosure of CRA ratings and examination reports, we suggest that in addition to providing ratings and comments to institutions, the regulators also prepare a summary assessment without a rating, which the bank would be required to include in its public CRA file. The Regional Offices would also maintain these summary assessments which would be made available to the public upon request.

#### 9. Notice of CRA Examinations

We do not believe public notice of CRA examinations would be practical. Even the most thorough CRA review usually takes only a few days. Publication near the date the examination commences may not allow for public comments to reach the examiner in a timely manner. Further, there are times when for very valid reasons, an examination must be rescheduled at the last minute. A notice requirement could cause confusion for the public and problems for regulators in these instances.

The regulatory agencies have complaint and CRA protest procedures in place which indicate where and to whom consumers may write to comment on an institution's CRA performance. Interested parties are encouraged to submit comments related to CRA to the regulatory agencies and financial institutions on an ongoing basis and not only when an examination is about to occur, which may be once every two years. Our regulations require the maintenance of a public file of comments on a bank's CRA performance, and this file is reviewed by examiners during the course of a CRA examination. A publication requirement could discourage interim comments, and thus be counter-productive.

#### Conclusion

The FDIC is aware of the importance of the CRA in encouraging banks to more comprehensively meet the credit needs of their communities and, in particular, the credit needs of low and moderate income neighborhoods. Effective enforcement by the FDIC is both essential and beneficial. It should be recognized, however, that implementation of the CRA must be accomplished in ways that assure the safety and soundness of financial institutions.

Thank you Mr. Chairman and members of the Subcommittee, for giving the FDIC an opportunity to express our views on these issues. We will be pleased to respond to any questions.

Attachments

CRA EXAMINATION POLICIES AND PROCEDURES

## COMMUNITY REINVESTMENT

### INTRODUCTION

The Community Reinvestment Act (CRA) (12 U.S.C. 2901 *et seq.*) is intended to encourage banks to help meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, while preserving the flexibility necessary to operate in a safe and sound manner.

Encouragement is to be provided by the Corporation which is required to:

- Use its examination authority to encourage a bank to help meet the credit needs of its entire community, consistent with the safe and sound operation of the bank;
- Assess, in connection with its examination, the bank's record of helping to meet the credit needs of its entire community; and
- Take that record into account in evaluating an application for deposit insurance, a branch or other deposit facility, office relocation or merger.

Proponents of the CRA were concerned, among other things, with situations in which local lenders reportedly exported local deposits to other areas despite sound local lending opportunities. Such disinvestment was considered a threat to community and neighborhood vitality. Lenders, therefore, are encouraged to give particular attention to local housing and development needs of urban and rural areas. Increased lender sensitivity to such needs would help preserve, rehabilitate and revitalize such areas. Moreover, even though credit for local housing and community development was emphasized, it was realized that other types of credit provide community facilities and services necessary for neighborhood vitality and, more generally, a healthy local community.

The CRA is not intended to inject hard and fast rules or ratios into the examination or application process. Rather, the law contemplates a judgmental evaluation of a lender's record in order to accommodate varying circumstances. Nor does the CRA require banks to make high risk loans that jeopardize their safety. Rebuilding and revitalizing communities are viewed as beneficial for both communities and banks.

### PART 345 - COMMUNITY REINVESTMENT

The Corporation's implementing regulation (Part 345) requires the board of directors of each insured non-member bank to adopt and, at least annually, review a CRA statement. The statement must include: (1) a delineation on a map of each local community served by the bank, (2) a list of the specific types of credit

the bank is prepared to extend within each local community, and (3) a copy of the CRA notice. The regulation also encourages each bank to include in its statement a description of its efforts to ascertain and help meet community credit needs.

A bank must provide in each office a CRA notice, the exact wording of which is prescribed in the regulation. The public notice indicates that the CRA statement is available, that written comments on the statement and the bank's community lending performance may be submitted to the bank or the Corporation, that a file of such comments is publicly available, and that the public may request announcements of applications covered by the CRA from the Corporation. Each bank must keep a public file of CRA statements in effect and CRA-related public comments received during the past two years.

The CRA regulation sets forth a list of factors which the Corporation will consider in assessing each bank's record of helping to meet community credit needs, including those of low- and moderate-income neighborhoods. Banks are not required to adopt particular activities on the list since the regulation is designed to allow each bank considerable flexibility in determining how it can best help to meet the credit needs of its entire community in view of its particular skills and resources.

In essence, the regulation encourages banks to become aware of the full range of credit needs of their communities and to offer the types of credit and credit-related services that will help meet those needs. However, the regulation does not require banks to offer particular types or amounts of credit. The Corporation's assessment of a bank's CRA record will be taken into account by the Corporation in evaluating a variety of applications.

### BACKGROUND FOR EXAMINATIONS

#### Judgmental Process

In conducting a CRA examination, the examiner is expected to adjust the CRA procedures on a case-by-case basis to accommodate banks that vary in size, expertise and locale. Community credit needs will often differ with the specific characteristics of each local community, and a bank should be evaluated on the basis of its attempts to ascertain, its determination to help meet, and its performance in helping to meet community credit needs in the context of its resources and local circumstances.

#### Balanced Viewpoint

The examiner should maintain a balanced perspective in conducting a CRA examination. The examiner cannot normally conclude on the basis of any one factor that a bank is or is not helping to meet the credit needs

## II-D

### Section

of its local community or communities. Nor can the examiner adequately assess a bank's performance on the basis of any one source of information, data or opinion. For that reason, the examination procedures are designed to ensure that information from both the bank and the community is objectively reviewed and evaluated.

#### Bank's Input

The examination procedures give each bank the opportunity to demonstrate that it is having a beneficial influence on its local community or communities. Bankers that are helping to meet community credit needs are proud of that fact and will be of substantial assistance to the examiner in assessing the performance of their banks.

#### Examiner Encouragement

When appropriate, an examiner should encourage a bank to improve its CRA record by discussing with management various ways in which the bank may strengthen its performance. The examiner should not, however, insist on any specific action by the bank, such as the making of a certain type of loan, which would interfere with the bank's responsibility for establishing its own policies.

#### Examination Burden

The examiner must be careful to not unduly burden the bank since Congress did not intend to impose significant new reporting or recordkeeping requirements on banks. The examiner should normally request only required records and other existing information, but the scope of the review must always be sufficient for an adequate assessment.

#### Bank's Financial Condition and Size, Legal Impediments and Local Economic Conditions

A bank's ability to help meet community credit needs is influenced by its financial condition and size, as well as by any legal impediments and the local economic conditions under which it operates. An examiner must take these considerations into account in assessing the bank's performance and in providing encouragement.

#### Technical Compliance with the Regulation

The examiner will check for compliance with the specific requirements of the regulation. However, compliance with procedural requirements does not imply that the bank has been serving local credit needs. The converse is also true: noncompliance with a technical requirement does not necessarily mean that the bank is not helping to meet community credit needs.

The examiner must not lose sight of the intent of the statute in checking for technical compliance with the regulation. The entire examination is designed primarily to determine the extent to which the bank has helped and is helping to meet community credit needs.

#### Communication, Community Development and Low- and Moderate-Income Neighborhoods

In assessing the record, the examiner should bear in mind the special emphasis placed on effective communication and community development activities. With respect to communication, the premise is that community needs which can be met on a safe and sound basis are more likely to be met when the community is aware of the types of credit available and the lender is well informed about community credit needs. Hence, efforts to ascertain community credit needs and to publicize available credit services, including measures to identify the credit needs of, and to advertise in, low- and moderate-income neighborhoods, are encouraged. The examiner is authorized to conduct interviews with community members when such action would be appropriate in determining community awareness of the bank's credit services and local perception of credit needs.

The CRA also focuses on activities that foster development within the entire community, including low- and moderate-income neighborhoods. Consequently, housing-related extensions, participation in community development programs, and small business financing, including loans to small farms, are viewed favorably.

### SELECTED FEATURES OF CRA EXAMINATIONS

#### The CRA Statement

A bank must prepare a separate CRA statement for each local community it serves, including a delineation of the relevant local community. It does not necessarily follow, however, that the statement prepared for each local community must contain a unique list of available credits. A bank serving several local communities may elect to prepare statements that contain lists of credits which are similar or identical for the local communities served. Since some credit needs are common to many local communities, such an approach would be consistent with the intent of CRA. There are other ways for a multi-community bank to satisfy this requirement. The examiner need not be especially concerned with the specific method employed by a multi-community bank so long as it makes a good faith effort to inform members of each local community about their community's boundaries and the types of credit extended there.

#### Reasonableness of Community Delineation

Each bank must delineate the local community or communities that it serves. For instance, a statewide

branching bank would serve a number of "local communities," the total of which would constitute its "entire community." Further, more than one office of a bank may serve the same local community. For example, a bank may have offices throughout a city and its suburbs and consider that entire metropolitan area to be the local community for those offices. Each community delineation must, of course, include the contiguous areas surrounding each office or group of offices.

Because many factors influence the size and shape of a bank's community, the regulation provides guidelines to assist each bank in defining its local community or communities.

The first guideline suggests the use of widely recognized existing boundaries such as those of MSAs or counties for delineating a bank's local community or communities. Such boundaries frequently constitute a reasonable approximation of a bank's local community.

In general, a local community based on existing boundaries should be no larger than an entire MSA or a county in a non-MSA area. If a bank has offices in more than one such area, it will have more than one local community. When a bank has an office near the boundary of an MSA or county, it should include those portions of adjacent counties that it serves. In rural areas, a local community may sometimes encompass more than one county but, generally, banks should not use states or regions of states to delineate local communities. A small bank that serves an area smaller than an MSA or county may define its community to be a part of the MSA or county. A bank may make adjustments in a community delineation in the case of areas divided by state borders, significant geographic barriers, or areas that are extremely large or of unusual configuration.

The second guideline proposes the use of effective lending territory, a concept more familiar to savings and loan associations than to commercial and mutual savings banks. The effective lending territory is that local area or areas around each office or group of offices where an institution makes a substantial portion of its loans and all other areas equally distant. If a bank employs its effective lending territory, it is encouraged to follow existing boundaries where practical.

One should not conclude from this guideline that each office necessarily serves a separate and distinct local community because each office typically has a different, though possibly partially overlapping, effective lending territory. If a bank is represented throughout a trade or market area, it may be more reasonable to use that area as its local community.

Finally, the regulation allows a bank to use any other reasonably delineated area. A bank is thus given substantial leeway in specifying its local community so long as the definition is reasonable; that is to say, the

bank can provide a sensible rationale for the delineation and has not arbitrarily excluded any low- and moderate-income neighborhoods.

#### **Low- and Moderate-Income Neighborhoods**

In determining whether the community definition is reasonable, the examiner must be alert to situations where low- and moderate-income neighborhoods are gerrymandered out of a delineated area. Moreover, in assessing the record of a bank, the examiner should focus particular attention on its performance in low- and moderate-income neighborhoods within a local community.

Low- and moderate-income neighborhoods may be identified in most cases in a manner similar to the approach taken by HUD in administering the Community Development Block Grant Program. For this purpose, such neighborhoods are approximated by those census tracts in an MSA where median family income is less than 80 per cent of median family income for the entire MSA.

Unfortunately, these data are not available for non-MSA counties. Non-MSA areas, especially rural areas, present a particular problem in identifying low- and moderate-income neighborhoods. In those areas, the examiner may have to rely on personal knowledge of the area, physical inspection as necessary, discussion with bank personnel or a combination of these.

#### **Small Business Lending**

Small business loans represent one type of credit which the Corporation believes is directly related to the purposes of the CRA. In considering small business lending, the examiner should not be concerned with any hard and fast or precise definition of what constitutes a small business. Instead, the examiner should regard as small business lending any loans to local firms whose access to credit is limited to local sources because of their size.

# II-D

Section

## EXAMINATION OBJECTIVES

1. To determine if the bank's policies address the intent of the CRA.
2. To encourage sensitivity and responsiveness to community credit needs.
3. To determine that the bank is complying with the requirements of the CRA regulation.
4. To determine the reasonableness of the bank's community delineation(s).
5. To assess the bank's record in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with a safe and sound operation.
6. To develop, organize and report information on the bank's record for use in the supervisory and application processes.

**EXAMINATION PROCEDURES****Limited Review**

1. Determine the method used by the bank to delineate its local community or communities and the reasonableness of each such delineation.(345.3(a)) Note particularly any low- or moderate-income neighborhoods or areas that appear to have been arbitrarily excluded.
2. Assess the bank's record of performance in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with its safe and sound operation. The various assessment factors detailed in the regulation should all be considered to the extent applicable to the particular bank and the community or communities in which it operates. HMDA data should be used to ascertain the volume and location of housing loans. Particular attention should be paid to the relative volume of lending in low- and moderate income areas.

In assessing the record, the examiner should review the Officer's Questionnaire, review and analyze the bank's public file and interview responsible personnel to determine efforts undertaken by the bank to ascertain and help meet community credit needs. To the extent necessary for an adequate assessment, the examiner is encouraged to interview community members to determine community awareness of the bank's credit services and local perception of credit needs as well as the bank's efforts to meet those needs.

3. Review each CRA statement in effect during the past two years to determine that all required items are included.(345.4(b)) Note the specific types of credit the bank is prepared to extend within the local community and determine whether the types of credit in the CRA statement correspond with the types of credit actually being extended. Request an explanation of any difference.(345.4(b)(2))
4. Review minutes of directors' meetings to verify that all required CRA statements have been adopted, are reviewed at least annually and that the board has acted upon any interim changes and noted such actions in the minutes.(345.4(d))
5. Ascertain that the public file contains all signed comments received from the public that specifically relate to any CRA statement or to the bank's performance under the CRA as well as any responses made by the bank. The file should also contain all CRA statements in effect during the past two years.(345.5)
6. Ascertain that the bank's public notice contains the correct language and is properly posted.(345.6)
7. Review with management the following:
  - The extent to which the bank is helping to meet the credit needs of its community;
  - Suggestions that might better enable the bank to help meet the credit needs of its community;
  - Deficiencies or exceptions in policies or practices; and
  - Procedural violations of the regulation.

# II-D

## Section

### Expanded Review

1. Ascertain from bank personnel what steps the bank has taken or plans to take which indicate whether it is helping to serve the credit needs of its local community or communities.
  2. Obtain the following:
    - Minutes of the board of directors' meetings, particularly those dealing with the adoption, review and revision of all CRA statements.
    - The bank's files of public comments and recent CRA statements.
    - Comment letters received by the Corporation.
    - The bank's loan and investment policy and procedural manuals, along with other manuals relating to the CRA.
  3. Review minutes of directors' meetings and verify that the board has:
    - Adopted a CRA statement for each delineated community.
    - Reviewed each statement at least annually.
    - Acted upon any material change in each statement at the first regular meeting of the board following the change.
  4. Review and analyze the public files for:
    - Any signed, written comments received from the public during the past two years that specifically relate to any CRA statement or to the bank's performance in helping to meet the credit needs of its community or communities. Determine that the comments do not contain any material specifically prohibited by the regulation. However, the comments themselves should be considered.
    - Any responses to the commentors that the bank may have made.
    - All CRA statements in effect during the past two years.
- Note: Inherent in the process of reviewing public files is the option of contacting commentors and/or community members to the extent deemed necessary.
5. Review each CRA statement in effect during the past two years and:
    - Ascertain if the bank's delineation of its local community or communities is reasonable. Give special attention to the following:

- Considerations used by the bank to define its community.
- Community boundaries that are sharply asymmetrical, too narrowly drawn or so broad that the bank fails to focus on its local community.
- Whether any low- and moderate-income neighborhoods have been arbitrarily excluded.
- Public comments specifically relating to the reasonableness of the bank's delineation(s).
- Any relevant information obtained from other examination programs that have been performed.

If a question remains regarding the reasonableness of the community delineation, a review of community boundaries drawn by comparable local banks may provide useful information.

- Review and analyze the specific types of credits within certain categories that the bank is prepared to extend within the local community. Determine if the types of credit in the CRA statement correspond to the types of credit actually being extended by the bank. Request an explanation of any differences. If feasible and appropriate, review the list of available credits prepared by comparable local banks.
  - Determine that a copy of the CRA public notice is included.
  - Analyze any of the following optional information that the bank may have included:
    - A description of how its efforts, including special credit-related programs, help to meet community credit needs.
    - A periodic report regarding its record of helping to meet community credit needs.
    - A description of its efforts to ascertain the credit needs of its community, including efforts to communicate with members of its community regarding credit services.
    - Any other material the bank may have included.
6. Analyze the bank's policies, procedures and operating practices to determine if the bank:
    - Provides the CRA public notice in a manner specified by the regulation. (A bank may reprint this notice as a poster or flyer to be placed in its lobby. The notice requirement may also be satisfied by making the CRA statement, which

includes the notice, available as a brochure in the lobby.)

- Makes all CRA statements available to the public as provided by the regulation.
- Makes the public comment files readily available for public inspection as provided in the regulation.

7. Review the bank's credit underwriting and appraisal criteria and the terms and conditions of loans to determine if they are being used for exclusionary purposes contrary to the objectives of the CRA.

**8. Assessment Factors**

- Activities conducted by the bank to ascertain the credit needs of its community, including the extent of the bank's efforts to communicate with members of its community regarding the credit services being provided by the bank.

Ascertain from bank records and through interviews the extent to which the bank has communicated with members of its local community or otherwise has attempted to determine such needs. Pertinent factors may include:

- Management review of written, signed comments received in response to the bank's CRA statement(s).
- Studies conducted or reviewed by the bank concerning local credit needs.
- The extent of the bank's efforts to communicate with members of its community regarding the credit services it is providing. Such members might include customers of the bank; educational organizations; merchants' associations; religious organizations; local government officials; block clubs; neighborhood organizations; coalitions of neighborhood organizations; local civil rights, consumer, minority, and non-English speaking groups; housing counseling service centers; community development corporations; non-profit housing development corporations; and local development corporations.
- The bank's communications with private organizations as may be identified by the Office of the Assistant Secretary for Neighborhoods, Voluntary/Associations and Consumer Protection at HUD.
- The bank's review of the local government's Community Development Plan and Housing Assistance Plan prepared in conjunction with HUD's Community Development Block Grant Program.

— Economic forecasting, as developed or used by the bank.

- The extent of the bank's marketing and special credit-related programs to make members of the community aware of the credit services offered by the bank.

Review the bank's marketing program and determine if it is adequately designed to encourage applications for loans in its community, particularly in low- and moderate-income neighborhoods. Pertinent factors may include:

- Any working relationships the bank may have with real estate brokers or others who service low- and moderate-income neighborhoods.
- Mortgage counseling programs and programs of management assistance for small or minority businesses.
- Development and participation in mortgage review boards.
- Credit and credit-related services in low- and moderate-income neighborhoods compared to such services in other neighborhoods served by the bank.
- Use of bank representatives for seeking out potential housing-related and small business demand in low- and moderate-income neighborhoods.
- Advertising the types of loans the bank is willing to make in media likely to reach low- and moderate-income individuals in the bank's local community or communities.
- Availability of convenient hours in offices accessible to residents of low- and moderate-income neighborhoods.
- Use of informational brochures and participation in other educational efforts.
- The extent of participation by the bank's board of directors in formulating the bank's policies and reviewing its performance with respect to the purpose of the CRA.
- Any practices intended to discourage applications for types of credit set forth in the bank's CRA statement(s).

Review other fair lending examination programs, particularly as they pertain to interviewing and prescreening. Additionally, ascertain the following:

- Whether administrative loan personnel and loan offices are aware of the CRA and the requirements of the implementing regulation.
- Whether lending officers are aware of the bank's delineation of its local community or communities and its policies, if any, with respect to its commitment to help meet the credit needs of its entire community, including low- and moderate-income neighborhoods.
- Whether loan officers are aware of the types of credit the bank offers to members of its local community or communities.
- Whether public contact personnel are aware of the availability of the bank's CRA statement(s) and files of public comments.
- Whether the bank is prepared to extend certain types of credit in some local communities or neighborhoods but not in others. An explanation of any difference should be requested.
- The extent to which the bank is willing to make loans in its delineated local community or communities, utilizing information derived below. Special attention should be given to the specific reasons why loan applications have been denied, whether or not such denial has been on a prohibited basis.
- Whether loan officers or other public contact personnel prescreen potential applicants from obtaining loans that the bank has stated it is willing to make, particularly applicants from low- and moderate-income neighborhoods.

• The geographic distribution of the bank's credit extensions, credit applications and credit denials.

Determine whether there is any indication of a geographic distribution of credit extensions, applications for credit and credit denials which would signify failure to serve selected areas of local communities, particularly low- and moderate-income neighborhoods. Initial reliance may be placed on discussion with other examiners, review of reports of examination and work papers from other examination programs performed. For those banks located in MSAs, additional reliance may be placed on other fair lending examination programs for ascertaining the volume and location of housing-related credits. For loans made outside MSAs, particularly with respect to banks that are not located in such areas, interview management and review internal files to determine the extent of

housing-related lending in low- and moderate-income neighborhoods and the extent to which the bank has not extended such credit in these areas.

Reliance may be placed upon geocoding of credit extensions, credit applications and credit denials. Where the bank is required to maintain logs of applications, the examiner should also review the logs to determine the geographic distribution of loans, applications and denials. In conjunction with other fair lending examination programs, it may be necessary to analyze further the geographic distribution of small business loans, including loans to small farms within the bank's local community.

• Evidence of prohibited discriminatory or other illegal credit practices.

Review prior Compliance Reports and, in conjunction with other examination programs, determine the extent to which the bank is currently complying with the law.

• The bank's record of opening and closing offices and providing services at offices.

Review the bank's record of and future plans for opening and closing branches and determine what factors management uses to determine which branches to close, which to leave open, and where to open new branches. The bank's approach can be determined through interviews with bank personnel knowledgeable about the bank's policy on opening and closing branches. Information can also be obtained through reviews of minutes of board of directors meetings, other bank records, Regional Office files, and interviews with representatives of public organizations with a particular focus on low- and moderate-income and minority neighborhoods. Also consider any information from interviews with community representatives about the attitudes of the community toward any actual or prospective branch closings.

A review of the bank's branch record should include at a minimum the following items:

- Any actions the bank has taken to minimize the impact of branch closings by trying to continue to offer services by alternate means, such as providing a way for customers to continue to obtain credit, installing ATMs or night deposit facilities, or by promoting continued productive use of the branch building.
- Any attempts the bank has made to prevent closing any branches by adjusting hours, services, facilities, finding alternative sites

suitable to community residents, or the like in an attempt to make the branch viable.

- The bank's written plan for opening or closing its branches, if applicable. (Also review minutes of board of directors meetings for discussion of same.)
- The bank's system to account for expenses, income and profitability of branches and the application of this system to branch closings. (Also review minutes of board of directors meetings for discussion of same.)
- Any studies that may have been done to determine whether other financial institutions adequately serve neighborhoods where bank branches are or will be closed.
- The bank's participation, including investments, in local community development and redevelopment projects or programs.

Review written lending policy and procedural manuals and interview lending officers to ascertain whether current programs include, or if the bank has considered involvement in, programs for satisfying potential credit needs such as the following:

- HUD's Community Development Block Grant Program.
- Local neighborhood preservation efforts.
- Community Development Corporations.
- Financing for Local Development Corporations.
- Neighborhood Housing Services.
- Investments in, or coordination with Minority Enterprise Small Business Investment Corporations (MESBICs), or Small Business Investment Corporations (SBICs) in providing loans to business for which equity or subordinated debt is provided by MESBIC or SBIC.
- Purchase of securities of state and local housing agencies.
- The bank's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, and small business or small farm loans within its community, or the purchase of such loans originated in its community.

Review the bank's financial statements, other appropriate records including HMDA statements, its written lending policy and procedural manuals, and interview lending personnel

to ascertain whether the bank has originated or purchased such loans or has plans to do so.

- The bank's participation in governmentally-insured, guaranteed, or subsidized loan program for housing, small business or small farms.

This information may be obtained in ways similar to the ones in the assessment factor above. Examples of such government loan programs include:

- FHA/VA/FmHA mortgage loans to members of its community or communities.
- FHA Title I home improvement loans.
- SBA loan guaranty programs.
- Similar programs conducted by state or local agencies.
- The bank's ability to meet various community credit needs based on its financial condition and size, legal impediments, local economic conditions and other factors.

The financial condition of the bank may be ascertained from discussion with other examiners or review of examination work papers and reports. Small banks may not have the specialized staff or financial resources needed to participate in some loan programs.

Legal restrictions on permissible activities, interest rates, and branches may affect a bank's ability to help meet community credit needs. Adverse economic conditions caused by local or general economic difficulties may force a bank to temporarily curtail its lending activities.

Other factors may affect a bank's ability to help meet community credit needs.

- Other factors that in the Corporation's judgment reasonably bear on the extent to which the bank is helping to meet the credit needs of its entire community.

Pertinent factors may include:

- Purchases of state and municipal bonds, secondary mortgage market securities, or such other activities when they further special purposes in the community, such as the construction or rehabilitation of low- and moderate-income housing or other neighborhood or community development, or are issued by municipalities or other local public financing units which do not have access to the capital markets.
- Whether the bank's policies promote efforts to assist existing residents in neighborhoods

## II-D

### Section

undergoing a process of reinvestment and change.

— Whether the bank offers “basic financial services” such as low cost transaction and savings accounts with low or no minimum balances, accounts for consumers who use a limited number of checks or drafts, and other accounts on which minimal charges are made for account maintenance. The marketing efforts for these types of accounts should also be evaluated.

— Any other relevant factors.

In some instances, it may prove beneficial or necessary to the assessment process to contact persons or organizations outside the bank to help determine the bank's record of meeting community credit needs and to identify unmet credit needs. The following are examples of types of outside contacts the examiner should normally make:

- Any person or organization that has specifically requested to speak to an examiner on a CRA or fair housing lending matter;
- Any person or organization that has raised in a CRA comment letter a substantial issue which requires further explanation or verification;
- A sample of persons or organizations with whom the bank has said it communicated. (This form of contact, however, should usually be made only in circumstances where the examiner determines a need to independently verify the bank's efforts to ascertain local credit needs.)
- Where there are indications of prescreening on the basis of race or sex or other disparate treatment of minorities or women, any person or organization that is likely to receive complaints or other information concerning such treatment.

- Any other person or organization likely to provide valuable information concerning the credit needs of the bank's community, its efforts to ascertain those needs and make known its credit services, or its efforts to meet the credit needs of the community. Examples include local community development officials, real estate brokers, city and county officials, chambers of commerce, community action groups, local business persons and clergymen.

Initial contact may be made by telephone and suffice as adequate in some instances. An in-person interview should be conducted, however, whenever considerable information is likely to be provided, a number of people may be interviewed at the same location or relevant documentation may be made available for review. Outside contacts should be documented either in the workpapers or in the supervisory section of the Compliance Report, including the names and titles of the persons and/or organizations contacted and a brief summary of their comments regarding the bank's record of performance in the community.

9. Determine if the bank's record of performance demonstrates a recognition of its continuing and affirmative obligation to help meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation.
10. Review the following with management:
  - The extent to which the bank is helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation.
  - Suggestions that might better enable the bank to help meet the credit needs of its entire community.
  - Procedural violations of the regulation.
  - Deficiencies or exceptions in policies or practices.

ATTACHMENT 2

UNIFORM INTERAGENCY CRA ASSESSMENT RATING SYSTEM

## RATING SYSTEMS

### CONSUMER COMPLIANCE RATING SYSTEM

The primary purpose of the rating system is to help identify those institutions whose compliance with consumer protection and civil rights statutes and regulations display weaknesses requiring special supervisory attention and which are cause for more than a normal degree of supervisory concern. To accomplish this objective, the rating system identifies an initial category of institutions that have compliance deficiencies that warrant more than normal supervisory concern. These institutions are not deemed to present a significant risk of financial or other harm to consumers but do require a higher than normal level of supervisory attention. Institutions in this category are generally rated composite "3". The rating system also identifies certain institutions whose weaknesses are so severe as to represent, in essence, a substantial or general disregard for the law. These institutions are, depending upon the nature and degree of their weaknesses, rated a composite "4" or "5".

In assigning the composite rating, all relevant factors must be evaluated and weighed. In general, these factors include the nature and extent of present compliance with consumer protection and civil rights statutes and regulations, the commitment of management to compliance and its ability and willingness to take the necessary steps to assure compliance, and the adequacy of operating systems, including internal procedures, controls, and audit activities designed to ensure compliance on a routine and consistent basis. The assignment of the composite compliance rating may incorporate other factors that impact significantly on the overall effectiveness of an institution's compliance efforts. The Corporation has devised a three dimensional rating scheme designed to assist examiners in arriving at a more meaningful analysis of the bank's compliance posture prior to assigning the composite consumer compliance rating. The specific dimensions comprising the Corporation's rating schemes are:

M - Management      V - Violations and  
P - Program or "MVP"

All ratings are assigned on a scale of 1 through 5 in ascending order of supervisory concern. Thus, "1" represents the highest rating and consequently the lowest level of supervisory concern; while "5" represents the lowest, most critically deficient level of performance, and therefore the highest degree of supervisory concern. Each bank is accorded a composite consumer compliance rating which reflects the overall performance of the bank on the basis of the three dimensions.

The MVP individual ratings are to be assigned on the basis of the following specific guidelines. These guidelines, however, do not preclude consideration of other

factors which, in the judgment of the examiner, are deemed relevant to accurately portray the rating of the individual dimension.

#### Management

##### One

Management displays a positive attitude toward compliance and is capably administering an effective compliance program. Changes in consumer laws and regulations are promptly addressed in the bank's policies, and violations and deficiencies receive immediate corrective action.

##### Two

Management is adequately overseeing the bank's compliance program. Problem areas are few in number and easily corrected. Review of prior reports indicates a willingness to effect correction of violations. If required, reimbursements are made voluntarily.

##### Three

Management is not devoting sufficient time to the administration of the bank's compliance program and previously identified violations remain uncorrected. Although knowledgeable of the requirements of the various laws and regulations, increased efforts are required to effectuate compliance.

##### Four

Management has not exerted sufficient effort to ensure compliance with the various laws and regulations. There is a lack of interest or capability in administering a compliance program which has resulted in numerous repeat violations.

##### Five

Management has demonstrated an unwillingness or inability to operate within the scope of consumer laws and regulations. Serious problems remain uncorrected and management's attitude towards compliance is poor.

#### Violations

##### One

Violations, if any, are technical and easily corrected. There is no evidence of discriminatory acts or practices and there are no repeat violations.

##### Two

Any violations noted involve technical aspects of the law, or result from oversight or clerical error on the part of operating personnel. There is no evidence of discriminatory acts or practices and no reimbursable violations. Any repeat violations are few in number and technical in nature.

##### Three

Reimbursements, if present, involve several customers and are minimal in amount. There is no evidence of discrimination; however, violations may be numerous. Patterns of repeat violations may exist.

# A

## Appendix

### Four

Numerous violations are present and reimbursements, if any, affect a significant number of customers and are substantial in amount. Discriminatory acts or practices may be in evidence. Practices resulting in violations cited at previous examinations remain uncorrected.

### Five

The bank is in substantial noncompliance with most consumer laws and regulations. Discrimination, numerous reimbursements and/or practices resulting in repeat violations are present.

## Program

### One

An effective compliance program, including a system of internal procedures and controls, has been established. Recordkeeping systems and employee training arrangements are good. Changes in laws and regulations are promptly reflected in the bank's compliance program and procedures for handling consumer complaints are in place.

### Two

Although a system of internal controls and operating procedures has been established to ensure compliance, violations have nonetheless occurred. Modi-

fications in the bank's compliance program and/or establishment of additional review/audit procedures may be warranted. Personnel appear knowledgeable of compliance matters and training is satisfactory.

### Three

Operating controls and procedures have not proven effective and require strengthening. Training is inconsistent and knowledge of regulations is weak in some areas. Management is not sufficiently involved in the compliance program to effect favorable changes.

### Four

The compliance program is not effective and internal procedures and controls are seriously deficient. Personnel lack knowledge in several critical areas and there is no formal training. Management is not actively involved in administering the very rudimentary compliance program in place.

### Five

There is no compliance program, written or oral. Knowledge of the laws and regulations is extremely limited and problem areas remain uncorrected.

For convenient reference, a chart depicting the characteristics of each rating dimension is provided on the following page.

**CONSUMER COMPLIANCE**

**RATING SYSTEM CHART**

	ONE	TWO	THREE	FOUR	FIVE
<b>MANAGEMENT</b>	Positive attitude - Capable - Immediate correction	Adequate oversight - Willing correction	Capable but increased effort necessary	Apathetic - Insufficient effort	Unwilling - Incapable Poor attitude
<b>VIOLATIONS Type/Volume</b>	Technical/Few	Technical/ Isolated or not numerous	Substantive/ May be numerous	Substantive/ Numerous	Substantial/ Most regulations
<b>Repeat</b>	None	Few and technical	Once or more patterns may exist	Patterns exist	Patterns exist
<b>Reimbursable</b>	None	None	Several customers Minimal amounts	Significant number of customers - Substantial amounts	Numerous patterns - Substantial amounts
<b>Apparent Discrimination</b>	None	None	None	May be evident	Evident
<b>PROGRAM</b>	Effective	Some exceptions occur	Limited effectiveness	Seriously deficient	None

## COMPOSITE RATING

Taking into consideration the MVP ratings, and other factors as warranted, a composite consumer compliance rating should be accorded. These ratings are defined and distinguished as follows:

### One

An institution in this category is in a strong compliance position.

Management is capable of and staff is sufficient for effectuating compliance. An effective compliance program, including an efficient system of internal procedures and controls, has been established. Changes in consumer statutes and regulations are promptly reflected in the institution's policies, procedures and compliance training. The institution provides adequate training for its employees. If any violations are noted, they relate to relatively minor deficiencies in forms or practices that are easily corrected. There is no evidence of discriminatory acts or practices, reimbursable violations, or practices resulting in repeat violations. Violations are promptly corrected by management. As a result, the institution gives no cause for supervisory concern.

### Two

An institution in this category is in a generally strong compliance position.

Management is capable of administering an effective compliance program. Although a system of internal operating procedures and controls has been established to ensure compliance, violations have nonetheless occurred. These violations, however, involve technical aspects of the law or result from oversight on the part of operating personnel. Modifications in the bank's compliance program and/or the establishment of additional review/audit procedures may eliminate many of the violations. Compliance training is satisfactory. There is no evidence of discriminatory acts or practices, reimbursable violations, or practices resulting in well-defined patterns of repeat violations.

### Three

Generally, an institution in this category is in a less than satisfactory compliance position.

Banks in this category are a cause for supervisory concern and require more than normal supervision to remedy deficiencies. Violations may be numerous. In addition, previously identified practices resulting in vio-

lations may remain uncorrected. Overcharges, if present, involve a few consumers and are minimal in amount. There is no evidence of discriminatory acts or practices. Although management may have the ability to effectuate compliance, increased efforts are necessary. The numerous violations discovered are an indication that management has not devoted sufficient time and attention to consumer compliance. Operating procedures and controls have not proven effective and require strengthening. This may be accomplished by, among other things, designating a compliance officer and developing and implementing a comprehensive and effective compliance program. By identifying an institution with marginal compliance early, additional supervisory measures may be employed to eliminate violations and prevent further deterioration in the institution's less than satisfactory compliance.

### Four

An institution in this category requires close supervisory attention and monitoring to promptly correct the serious compliance problems disclosed.

Numerous violations are present. Overcharges, if any, affect a significant number of consumers and involve a substantial amount of money. Often practices resulting in violations and cited at previous examinations remain uncorrected. Discriminatory acts or practices may be in evidence. Clearly, management has not exerted sufficient efforts to ensure compliance. Its attitude may indicate a lack of interest in administering an effective compliance program which may have contributed to the seriousness of the institution's compliance problem. Internal procedures and controls have not proven effective and are seriously deficient. Prompt action on the part of the supervisory agency may enable the institution to correct its deficiencies and improve its compliance position.

### Five

An institution in this category is in need of the strongest supervisory attention and monitoring.

It is substantially in noncompliance with the consumer statutes and regulations. Management has demonstrated its unwillingness or inability to operate within the scope of consumer statutes and regulations. Previous efforts on the part of the regulatory authority to obtain voluntary compliance have been unproductive. Discrimination, substantial overcharges, and/or practices resulting in serious repeat violations are present.

## UNIFORM INTERAGENCY COMMUNITY REINVESTMENT ACT (CRA) ASSESSMENT RATING SYSTEM

### Introduction

The purpose of the rating system is to provide a uniform means for regulatory agencies to identify quickly those institutions which require varying degrees of encouragement in helping to meet community credit needs. This provides a comprehensive and uniform system for evaluating the performance of federally regulated financial institutions examined under the various assessment factors of the Community Reinvestment Act and facilitates more uniform and objective CRA ratings.

The rating system ranks financial institutions on a scale from 1 through 5 with a "5" representing the lowest level of performance under the Act and, therefore, the highest degree of concern. Level "3" reflects performance which is less than satisfactory.

This system further employs five "performance categories" or components from which the overall composite CRA rating is derived. The performance categories represent a grouping of the various assessment factors contained in the implementing regulation for the Act. Each performance category is evaluated on a scale of 1 to 5 with a "5" representing the lowest level and therefore the worst performance. As explained later, each performance category includes a narrative description for each rating level.

### Overview

Each financial institution is assigned a composite CRA rating that is based upon the institution's performance in meeting various community credit needs. An examiner begins to evaluate the institution's record in meeting community credit needs by first reviewing its financial condition and size, legal impediments, and local economic conditions, including the competitive environment in which it operates. The type of community in which the institution is located will also have a significant bearing on how the institution fulfills its obligations to the community. Community credit needs will often differ with the specific characteristics of each local community, resulting in a variety of ways an institution may meet those needs. To maintain a balanced perspective examiners must carefully consider information provided by both the institution and the community.

### Composite Rating

The performance categories are individually assigned a numeric rating. In assigning the overall composite CRA rating, the performance categories will be weighed and evaluated according to how well the institution meets the descriptive characteristics listed below.

**Rating (1)** — The institutions in this group have a strong record of meeting community credit needs. Both the board of directors and management take an active part in the process and demonstrate an affirmative commitment to the community. Institutions receiving this rating normally rank high in all performance categories. Such institutions have a commendable record and need no further encouragement.

**Rating (2)** — Institutions in this group have a satisfactory record of helping to meet community credit needs. Institutions receiving this rating normally are ranked in the satisfactory levels of the performance categories. Institutions in this category may require some encouragement to help meet community credit needs.

**Rating (3)** — Institutions in this group have a less than satisfactory record of helping to meet community credit needs. The board of directors and management have not placed strong emphasis on the credit needs of the community. Institutions receiving this rating have mixed rankings surrounding the mid-range levels of the performance categories. Such institutions require encouragement to help meet community credit needs.

**Rating (4)** — Institutions in this group have an unsatisfactory record of helping to meet community credit needs. The board of directors and management give inadequate consideration to the credit needs of the institution's community. Institutions receiving this rating generally rank below satisfactory in the majority of the performance categories. Such institutions require strong encouragement to help meet community credit needs.

**Rating (5)** — Institutions in this group have a substantially inadequate record of helping to meet community credit needs. The board of directors and management appear to give little consideration to the credit needs of the institution's community. Institutions receiving this rating generally rank in the lowest levels of the performance categories. Such institutions require the strongest encouragement to be responsive to community credit needs.

### Performance Categories

For purposes of evaluating an institution's CRA performance the various assessment factors and criteria are grouped into the following "performance categories":

#### I. Community Credit Needs and Marketing

The institution is evaluated in this category on its activities in determining the credit needs of its community and in marketing its services. Included in this category are assessment factors (a), (b) and (c) in addition to how well the institution delineated its community and other technical compliance regarding the posted notice and maintenance of public files.

#### II. Types of Credit Offered and Extended

The institution is evaluated in this category on the

types and amounts of credit extended to the community and the degree to which those extensions are, in fact, helping to meet the community's needs. Included in this category are assessment factors (i) and (j) plus the institution's CRA statement.

### III. Geographic Distribution

The geographic distribution of the institution's loans and any practices meant to discourage applications are considered in this category, as well as the impact of the opening or closing of any offices and the services offered at those facilities. Included in the category are assessment factors (d), (e) and (g).

### IV. Discrimination or Other Illegal Credit Practices

The institution's compliance with anti-discrimination and of the credit laws is evaluated in this category. The category includes assessment factor (f). The rating to be assigned here corresponds to the institution's composite compliance rating.

### V. Community Development and Other Factors

The institution is evaluated in this category on its participation in community development and/or other factors relating to meeting local credit needs. Included in this category are assessment factors (h), (k) and (l).

Each of the performance categories and the level of performance relating to each category are described in greater detail below.

## Performance Category Ratings

### I. Community Credit Needs and Marketing

(Assessment Factors (a), (b), (c) and Community Delineation)

Rating Level 1 — The institution has actively undertaken steps to determine community credit needs. These activities may include:

- Identifying the demographic makeup (racial/ethnic groups and low- and moderate-income areas) of its community and making meaningful contacts with a reasonably full range of organizations (civil, religious, neighborhood, minority, etc.) to assist in determining the credit needs of all segments of its community;
- Taking into consideration comments to the public file which describe existing unmet credit needs; and
- Contacting local government officials to identify any needs of private lender participation in existing or prospective community development or redevelopment programs. (In rural areas the local government body may be the county supervisor's office or other appropriate office.)

The institution has actively undertaken marketing and credit related programs appropriate to the size and capacity of the institution and the nature and location of the community. These programs should

reach all segments of its community. Community segments should include low- and moderate-income residents, small businesses and, where applicable, owners of small farms. Management has also established working relationships with real estate brokers and others who serve low- and moderate-income areas and who may provide assistance for small or minority businesses. There is evidence that senior management is aware of community concerns and activities.

Rating Level 2 — The institution has undertaken activities to determine its community's credit needs. As a result of these activities, the institution is generally aware of the credit needs within its community, including low- and moderate-income areas. The institution has initiated a dialogue with community representatives such as local government, neighborhood, religious, and minority organizations, or small business and small farm organizations. The institution has undertaken marketing and credit related programs but the programs are not ongoing or comprehensive. Senior management demonstrates an awareness of community concerns and activities.

Rating Level 3 — The institution's activities to determine community credit needs are limited. The institution's employees may serve as volunteers on organization boards and committees. However, the institution has not established a systematic method to determine how or if its employees' volunteerism assists the institution in meeting its CRA goals. The institution's advertising may be principally deposit oriented. In addition, the institution generally has made no efforts to market its services on an equal basis to all segments of its community. Marketing and credit related programs do not include a mechanism for reaching low- and moderate-income areas within the delineated community. The institution's marketing effort does not adequately focus on marketing the types of credit for which the institution has identified a need (or a need is otherwise apparent). There may also be some concern about the community delineation.

Rating Level 4 — The institution's efforts to determine community credit needs are very limited and fail to address major segments of its community. Management has not established a dialogue with organizations representative of the community, including any which represent low- and moderate-income or minority neighborhoods within the delineated community. The institution's marketing and credit related programs are limited or poorly conceived. There may also be some concern about the community delineation. Senior management is unaware of special needs of low- and moderate-income residents, small business and small farms.

Rating Level 5 — The institution has not undertaken any meaningful efforts to determine community

credit needs. Management has limited knowledge regarding the community's demographic characteristics. The institution's marketing and credit related programs are either non-existent or have repeatedly excluded low- and moderate-income areas within the delineated community. There may also be some concern about the community delineation.

**II. Types of Credit Offered and Extended**  
(Assessment Factors (i), and (j) and CRA Statement)

**Rating Level 1** — The institution has investigated the need for different types of credit within its community such as residential mortgage loans, housing rehabilitation and home improvement loan, and small business or farm loans, including the need for private, as well as, government-insured, guaranteed, or subsidized forms of such loans. It has then made an explicit effort to assure that its loan policies are responsive to the needs and has examined the extent to which it and other institutions within the community are meeting the need for such loans. The institution's CRA statement lists the types of loans found to be needed in the community. The involvement by the institution in the making of each type of loan listed in the statement demonstrates an affirmative effort to make such loans and to do its share in meeting existing needs, consistent with its resources and capabilities.

**Rating Level 2** — The institution's CRA statement and loan portfolio indicate that it has investigated the need for residential mortgage loans, housing improvement/rehabilitation loans, small business and farm loans, and private, as well as government-insured, guaranteed, or subsidized forms of such loans within its community. It has made an explicit effort to assure that its loan policies are responsive to the needs found. The institution's performance in this category is distinguished from a 1-rated institution primarily in the extent to which it is marketing the availability of loans and/or in the degree to which the types and volume of loans being made match the community's most pressing credit needs.

**Rating Level 3** — The institution may not be offering one or more types of credit listed in its CRA statement, despite a capacity to do so. The institution's loan portfolio and other sources, including peer analysis, may indicate that the institution's share of loans of a type or types identified as needed in the community, including any low- and moderate-income areas, is marginal or somewhat below average, particularly with respect to extensions for residential housing, small business or farm credit.

**Rating Level 4** — The institution's record of offering and of making loans reveals that it is doing relatively little to help meet known or demonstrated credit needs for residential, small business or small farm credit, particularly for residents of low- and

moderate-income areas. Its participation in private, as well as government insured, guaranteed or subsidy loan programs is either prefatory or non-existent, under circumstances where the need for such loans has been identified and the lender can articulate no objective supportable reason for its low level of participation.

**Rating Level 5** — The institution is unwilling to adapt its credit offerings to serve demonstrated unmet credit needs in its community, particularly for housing, small business or small farm credit. This rating would be particularly appropriate where the lender's failure to meet these needs was cited in a previous examination.

**III. Geographic Distribution**  
(Assessment Factors (d), (e) and (g))

**Rating Level 1** — The geographic distribution of the institution's credit extensions, applications and denials indicate that the institution is making the substantial portion of its credit available to all areas within its community. The institution has reviewed the geographic distribution of its credit extensions, applications and denials in a manner appropriate to the size and capacity of the institution and the nature and location of the community. Where that review has disclosed a very low level of applications from or loans to a particular neighborhood or area, especially low- or moderate-income areas, the institution has reviewed its marketing practices to determine what, if any, impact they may have had on the distribution. Where appropriate, the institution has either revised its marketing practices or lending policies or both. The institution's officers are reasonably accessible to all segments of its community and banking hours are tailored to meet the convenience and the needs of its customers. Finally, the institution considers, in advance, the potential impact of opening and closing offices on its ability to continue offering reasonably equal services throughout its community.

**Rating Level 2** — The geographic distribution of the institution's credit extensions, applications and denials indicate that the lender is making credit available to all areas within its community. The institution has taken steps to eliminate unreasonable lending patterns disclosed by examiners or which have resulted from the review of the institution's policies or practices. The geographic distribution of applications reveals no pattern suggestive of any practice of discouraging or "prescreening" applications. The institution's record of opening and closing offices and the provision of services at its offices do not reflect any disparate treatment of minority or low- and moderate-income neighborhoods. Offices are reasonably accessible to all segments of its delineated community. Services and banking hours are periodically reviewed to assure accommodation of all segments of the delineated community.

**Rating Level 3** — The geographic distribution of the institution's credit extensions, applications and denials may suggest unreasonable lending patterns. Management has not attempted to review its lending policies and procedures or to analyze the institution's lending patterns within its community. The institution's record of opening and closing offices and its provision for services at its offices may indicate a disparity of treatment between certain areas within its community. Such a disparity is isolated and not an overall intentional pattern or practice. Management has plans to undertake immediate steps to restore reasonably equal service to any affected areas.

**Rating Level 4** — The geographic distribution of credit extensions, applications and denials reveal unreasonable lending patterns, particularly in low- and moderate-income neighborhoods or areas of racial/ethnic concentration. The geographic distribution of applications may indicate a possible pattern or practice of discouraging or illegally pre-screening applications. The institution's record of opening and closing offices and the provisions of services at its offices may suggest a pattern of disparate treatment of minority or low- and moderate-income neighborhoods. The record might portray an institution that has systematically sought to close or curtail services at offices serving minority or less affluent neighborhoods while opening new offices in developing, majority or upper-income areas.

**Rating Level 5** — The geographic distribution of credit extensions, applications and denials reveals extensive, systematic, and unreasonable lending patterns. The institution has adopted loan policies and procedures, such as unjustifiably high minimum mortgage amounts or down payments or restrictions based on the age of property, which have or can reasonably be expected to have a significantly adverse impact on loan availability in low- and moderate-income or minority neighborhoods. The institution's record of opening and closing offices and the provision of services at its offices suggest a continuing pattern of disparate treatment of minority or low- and moderate-income neighborhoods. Where this was previously cited, management has not taken any corrective action.

#### IV. Discrimination or Other Illegal Credit Practices (Assessment Factor (f))

The rating to be assigned here corresponds to the institution's composite compliance rating.

**Rating Level 1** — The institution is in substantial compliance with antidiscrimination and other credit laws.

**Rating Level 2** — The institution is in satisfactory compliance with antidiscrimination and other credit laws.

**Rating Level 3** — The institution is in less than satisfactory compliance with antidiscrimination and other credit laws.

**Rating Level 4** — The institution has an unsatisfactory record of compliance with antidiscrimination and other credit laws.

**Rating Level 5** — The institution is in substantial noncompliance with antidiscrimination and other credit laws.

#### V. Community Development and Other Factors (Assessment Factors (h), (k) and (l))

**Rating Level 1** — The institution has taken affirmative steps to become aware of the full range of community development and redevelopment programs within its community. It is actively participating in the development or implementation of such programs to an extent consistent with its size and capacity and the nature and location of the community. In non-MSAs, the institution has contacted appropriate government and non-government representatives to determine the level of community development needs in its area. It has then determined what areas are appropriate for its involvement and has initiated such involvement or has undertaken other types of activities not previously covered, which in the examiner's judgment reasonably bear upon the extent to which the institution is meeting the community credit needs.

**Rating Level 2** — The institution is aware of community development/redevelopment programs within its community. It has advised appropriate community officials of its interest in participating in such programs and is already involved in some aspects of program planning or implementation. Or, the institution is planning to undertake a specific activity designed to help meet community credit needs, which has not been covered in other categories, within six months.

**Rating Level 3** — The institution is only vaguely aware of the community development/redevelopment activities in its community. The institution has taken little affirmative action to become involved in community development or to learn the specific features of different programs. Management appears receptive to becoming involved or investing in one or more programs but prefers to wait for a request to be initiated by community officials. At such time, the institution will consider possible participation. Management has periodically discussed various efforts to respond to community credit needs but a specific plan has not been developed.

**Rating Level 4** — Management is unaware of the existence or nature of community development programs within its community and has expressed no interest in pursuing this area. Management has not developed any other programs, which were not

covered previously, to help meet community credit needs. Management may be unaware of the CRA regulations' encouragement of institution involvement in community development/redevelopment programs.

Rating Level 5 — Management has repeatedly demonstrated its lack of interest in determining if community developments projects exist in its community. It has not expressed an interest in developing its own response to community credit needs.

ATTACHMENT 3

SAMPLE FDIC SUPERVISORY ACTIONS RE: CRA

## MEMORANDUM OF UNDERSTANDING

This Memorandum constitutes an Agreement between the \_\_\_\_\_ and the Regional Director of the \_\_\_\_\_ Regional Office of the Federal Deposit Insurance Corporation. This Agreement is designed to address certain conditions disclosed in the Compliance Report prepared as of the close of business, \_\_\_\_\_, 1988, by Examiner \_\_\_\_\_.

1. Within 60 days of the date of this Agreement, the Bank shall adopt a written Compliance Policy establishing its goals in the compliance area. This policy will provide for the appointment of a Compliance Officer and will set forth the duties and responsibilities of the Compliance Officer.
2. The Board and Bank Management shall provide continuing review over compliance matters and guidance to the Compliance Officer.
- 3.
4. Within 90 days of the date of this agreement, the Board shall reassess the Bank's CRA performance and make the operating and policy changes considered necessary to improve that performance, consistent with the safe and sound operation of the Bank. A written report of that reassessment should address each of the assessment factors outlined in Section 345.7 of the Federal Deposit Insurance Corporation's Rules and Regulations. That report should be submitted to the Regional Director.
5. The Bank shall provide the Compliance Officer with adequate time and training to become familiar with the various laws and regulations and to satisfactorily discharge his or her duties.
6. The Bank shall direct the Compliance Officer that within 120 days of the date of this Agreement, the Compliance Officer shall prepare a training program and participate in the training of other officers and employees on a continuing basis.
7. The Bank shall direct the Compliance Officer that within 120 days of the date of this Agreement, the Compliance Officer shall prepare a schedule of the continuing requirements of each regulation (type and timing of disclosures, approvals, etc.) so that all involved employees will be informed of the regulations requirements.
8. The Bank shall direct the Compliance Officer that within 120 days of the date of this Agreement, the Compliance Officer shall prepare written procedures for continuing follow-up and review to ensure that adopted policies are being followed on a consistent basis.

Memorandum of Understanding  
Page 2.

9. The Bank shall direct the Compliance Officer that within 60 days of the receipt of the Compliance Report, the Compliance Officer shall ensure corrective action has been taken on each type of violation reported by supervisory authorities, including each exception listed in the report, dated: \_\_\_\_\_, 1988.
10. Within 90 days of the date of this Agreement, the Compliance Officer shall begin to make periodic reports to the Board on performance of the above duties and all other matters relating to compliance.
- 11.

It is agreed that within 60 days of the date of this agreement, the Bank shall furnish to the \_\_\_\_\_ Regional Director a written report detailing the form and manner of the Bank's compliance with all of the foregoing provisions. Additional reports will be provided every 60 days thereafter until all the provisions of the Agreement have been met. This Agreement is effective upon acceptance by the Regional Director of the \_\_\_\_\_ Region.

FEDERAL DEPOSIT INSURANCE CORPORATION

Accepted: \_\_\_\_\_

Regional Director

11-10  
Date

\_\_\_\_\_  
Date

PURSUANT TO RESOLUTION ADOPTED BY BOARD  
OF DIRECTORS OF THE  
IT'S DIRECTORS MEETING HELD  
AT THE \_\_\_\_\_ ON \_\_\_\_\_, 1988

FEDERAL DEPOSIT INSURANCE CORPORATION  
WASHINGTON, D. C.

In the Matter of

(INSURED STATE NONMEMBER BANK)

ORDER TO CEASE AND DESIST

FDIC-

("Bank"), having been advised of its right to a NOTICE OF CHARGES AND OF HEARING detailing alleged charges of unsafe or unsound banking practices and apparent violations of laws and regulations by the Bank and of its right to a hearing regarding such alleged charges under section 8(b)(1) of the Federal Deposit Insurance Act ("Act"), 12 U.S.C. § 1818(b)(1), and having waived those rights, entered into a STIPULATION AND CONSENT TO THE ISSUANCE OF AN ORDER TO CEASE AND DESIST ("CONSENT AGREEMENT") with a representative of the Legal Division of the Federal Deposit Insurance Corporation ("FDIC"), dated , 1988, whereby solely for the purpose of this proceeding and without admitting or denying the alleged charges of unsafe or unsound banking practices and apparent violations of applicable laws and regulations, the Bank consented to the issuance of an ORDER TO CEASE AND DESIST ("ORDER") by the FDIC.

The FDIC considered the matter and determined that it had reason to believe that the Bank had engaged in unsafe or unsound banking practices and committed violations of applicable laws and regulations.

The FDIC, therefore, accepted the CONSENT AGREEMENT and issued the following:

PAGES 2 THROUGH 6 DELETED

Examination Report; and (3) reporting at each Board meeting the results of such review procedures for inclusion in the minutes. Such monthly reports submitted by the compliance officer to the Board must include at a minimum: (1) each law or regulation reviewed; (2) details of exceptions noted; (3) any corrective action taken; (4) any training activity conducted during the period, indicating the subject matter and the names and job titles of employees in attendance; and (5) the compliance officer's opinion of the adequacy of the compliance operating procedures and the bank's current level of compliance.

7. As of the effective date of this ORDER, the Bank's Board of Directors shall require the designated compliance officer (1) to have continuous access to all prior and future FDIC Compliance Examination Reports and official correspondence relative to the Bank's compliance administration; and (2) to be provided with sufficient delegated authority, time and resources during normal working hours to study the Bank's previously adopted comprehensive compliance manual, update any obsolete material on an ongoing basis as necessary and, thereafter, strictly implement the provisions of the program contained therein.

8. Within 90 days from the effective date of this ORDER, the Bank shall take steps to improve its Community Reinvestment Act performance in a manner consistent with the recommendations set forth on pages 3 of the FDIC Report of Examination as of

, 1987.

LAST PAGE DELETED

✓Original  
, Copy

MEMORANDUM OF UNDERSTANDING

This constitutes an Agreement between the board of directors of the \_\_\_\_\_, and the \_\_\_\_\_ Regional Office of the Federal Deposit Insurance Corporation. This Agreement is designed to correct certain unsatisfactory conditions disclosed in the Compliance Report of Examination prepared as of the close of business \_\_\_\_\_, 1988, by Examiner \_\_\_\_\_.

It is agreed and understood that the board of directors shall, within 60 days of the date of this Agreement, take the following actions to improve the bank's compliance program:

1. Appoint a compliance officer to oversee and coordinate the bank's overall compliance efforts. The compliance officer shall be responsible for training and supervising all affected personnel in compliance related matters and shall be given necessary authority to implement appropriate compliance procedures. The compliance officer shall also be given sufficient time and resources to carry out his or her duties.
2. Ensure that the compliance officer receives necessary training as soon as possible after assuming his or her duties.
3. Adopt a compliance program that includes appropriate internal controls and training of personnel in all bank functions related to compliance.
4. Institute a review procedure whereby loan disclosure statements and adverse action notices are reviewed by a knowledgeable individual, other than the preparer.

With respect to the specific violations or exceptions disclosed in the Compliance Report of examination prepared as of the close of business \_\_\_\_\_ 1988, it is agreed and understood that the board of directors shall, within 60 days of the date of this Agreement, take the following actions:

1. Establish and implement practices and procedures sufficient to reasonably assure compliance with the Truth in Lending disclosure requirements set forth in Regulation Z, and make efforts to avoid further violations of each type of Truth in Lending disclosure requirement, described in the Compliance Report.
2. Furnish a complete and accurate adverse action notice to applicants for credit as required in Section 202.9 of Regulation B, which implements the Equal Credit Opportunity Act.
3. Establish and implement practices and procedures necessary to comply with the provisions of Part 339 of the FDIC Rules and Regulations relating to loans in areas having special flood hazards.
4. Obtain, record and maintain the information on home loan applicants to the extent necessary to comply with provisions of Section 338.4 of the Fair Housing regulations.
5. Direct management to correct all other violations listed in the Compliance Report and institute appropriate procedures to prevent their recurrence.

In addition, the board of directors shall monitor and confirm the completion of actions taken by management to comply with the terms of this Agreement. The board shall so certify in writing to the Regional Director when the above actions have been accomplished. All actions taken by the board pursuant to this Agreement shall be duly noted in the minutes of its meetings. This Agreement is effective upon acceptance by the Regional Director of the \_\_\_\_\_ Region.

MEMORANDUM OF UNDERSTANDING

-2-

DATED \_\_\_\_\_

Comprising the Board of Directors  
of

\_\_\_\_\_  
Regional Director  
Federal Deposit Insurance Corporation

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Original  
Copy

MEMORANDUM OF UNDERSTANDING

This constitutes an Agreement between the Board of Directors of the \_\_\_\_\_, and the \_\_\_\_\_ Regional Office of the Federal Deposit Insurance Corporation. In accordance with this Agreement, the bank will immediately undertake to, and, in no case later than 60 days from the date of this Agreement, take the following actions to improve the bank's compliance program:

1. Establish and implement practices and procedures sufficient to reasonably assure compliance with the Truth in Lending disclosure requirements set forth in Regulation Z, and make efforts to avoid further violations of each type of Truth in Lending disclosure requirement, described in the Compliance Report prepared at the \_\_\_\_\_, 1988 examination.
2. Establish and implement internal procedures to ensure compliance with Section 202.7(d) of Regulation B which implements the Equal Credit Opportunity Act.
3. Adhere to the provisions of the Community Reinvestment Act (CRA). Also, correct all violations of CRA described in the \_\_\_\_\_, 1988 Compliance report.
4. Furnish the Good Faith Estimate and completed Uniform Settlement Statement (HUD-1) to the applicable borrower and/or seller as required by provisions of Sections 3500.7 and 3500.8, respectively, of Regulation X, which implements the Real Estate Settlement Procedures Act.
5. Correct all other violations listed in the Compliance Report of Examination and institute appropriate procedures to prevent their recurrence.
6. Appoint a compliance officer to oversee and coordinate the bank's overall compliance efforts. The compliance official shall be responsible for training and supervising all affected personnel in compliance related matters and shall be given necessary authority to implement appropriate compliance procedures. The compliance officer shall also be given sufficient time and resources to carry out his or her duties.
7. Ensure that the compliance officer receives necessary training as soon as possible after assuming his or her duties.
8. Adopt a written compliance program that includes appropriate internal controls and training of personnel in all bank functions related to compliance.
9. Institute a review procedure whereby loan disclosure statements and related documentation are reviewed by a knowledgeable individual, other than the preparer, prior to issuance.

In addition, the Board of Directors shall monitor and confirm the completion of actions taken by management to comply with the terms of this agreement. The Board shall so certify in writing to the Regional Director when the above actions have been accomplished. All actions taken by the Board pursuant to this agreement shall be duly noted in the minutes of its meetings. This agreement is effective upon acceptance by the Regional Director of \_\_\_\_\_, and shall remain in effect until terminated in writing by the Regional Director.

MEMORANDUM OF UNDERSTANDING

-2-

This Memorandum of Understanding shall remain in effect until terminated in writing by the Regional Director, or until the Regional Director shall receive written notice of rescission by unanimous action by the board of directors.

DATED \_\_\_\_\_ Comprising the Board of Directors  
of

\_\_\_\_\_

Federal Deposit Insurance Corporatio