FEDERAL RESERVE BANK OF SAN FRANCISCO

Community Investments Vol. 8, Issue 3 Misconceptions Mask Opportunities in Indian Country

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Antedating the emergence of the Cascade Mountains, fed by tributaries from British Columbia and western Montana and Wyoming, the ancient Columbia River has been a constant factor in the Northwest's economic history. Several thousand years before the political unification of Upper and Lower Egypt in 3200 BC, Native Americans were sharing the bounty of the Columbia as a common resource. Thousands of years before goods were carried through Central Asia on the Silk Road, Native Americans used the river to create a trade network, eventually linking Alaska to California and the Pacific Ocean to the Dakotas.

Ivory, furs and fish, stone, hides and meat, shell, edible seeds and medicinal treasures were traded at the mouth of the Columbia where the Chinook Tribe maintained a busy exchange and traded on their own accounts. Trade was conducted in a common tongue (Chinook Jargon) and employed a regulated currency in the form of dentalium shell, the harvest of which was restricted to prevent inflation. Denomination was by size of shells grouped on a six-foot string.

This economic history is little known in today's banking community. Lack of recognition contributes to the misconceptions and misunderstandings that separate bankers from Native American markets and interferes with the creation of mutually beneficial relationships.

There are at least four misconceptions about Native Americans which need clarification:

1. Contemporary American society must rescue Native Americans from their chronic condition of poverty;
2. Reservation boundaries are irrelevant anachronisms;
3. Reservation boundaries form a barrier to sound banking practices; and,
4. The CRA is designed to benefit only underserved communities.

Let's examine each in more detail.

Contemporary American society must rescue Native Americans from their chronic condition of poverty. A practical effect of this misconception is that bankers often fail to treat Native Americans as intelligent players in negotiating mutually beneficial agreements.

Actually, there have been distinctive, rich and complex social organizations among Northwest tribes for millennia. Common features of these organizations included sharing political power between men and women and gender-independent accumulation of wealth and status. Cultural practices (e.g., potlatches among coastal tribes) led to regular distribution of basic goods and wealth-leveling within communities. The communities shared economic burdens and rewards. This system was so effective that four months of labor were sufficient to harvest the basics of survival for an entire year. This economic cycle provided ample time for art, war, spiritual and cultural celebrations. It was this cultural heritage that tribes intended to protect when they agreed to treaties transferring property rights.

From European contact to the early 20th century, the Native American population teetered on the edge of extinction. Today, despite two centuries of unrelenting pressure, Native American communities are winning their battle for self-determination and survival. Among the many historical skills being restored and supplemented by contemporary education is that of creating wealth. Not understanding the historical sophistication of these communities burdens the business dialogue between Native Americans and the financial community.

Reservation boundaries are irrelevant anachronisms. A practical effect of this misconception is that the values that guide Native American communities are not often considered when bankers evaluate proposals and structure agreements.

In fact, the boundaries are there specifically to protect vital, functional values with ancient roots. Native American communities have a unique position and perspective in American society. These are "guaranteed" by treaty rights which tribes constantly struggle to maintain against continuing federal, state and local government encroachment. As this publication goes to press, there are court actions from San Diego to Bellingham, Washington, and from Portland to Denver involving attempts to limit tribal sovereignty and cultural continuity.

Most Americans do not understand that sovereign Native governments were not given rights or land by the treaties. Nor do most Americans understand that the treaty obligations assumed by the United States are covenants in perpetuity--they are not discretionary. Land rights were transferred, value was delivered and treaties are still defined as contracts. In these contracts, the sovereign tribes 1) reserved specific rights they already owned in order to protect those rights, and 2) gave up certain rights (e.g., ownership of territory) in exchange for specific promises and protections for ways of life which predated the last Ice Age in North America.

In exchange for reservations on which tribes could live undisturbed, Native Americans ceded large tracts of territory, opening them up for white settlement. These reservations are remnants of ancestral homelands where cultural values of consensus decision-making, inter-generational respect, non-destructive use of resources, etc., hold ultimate authority.

When a tribal community seeks to invest in an enterprise, the community's values must be used to evaluate the investment. If, for example, an investment does not appear to generatea profit-margin consistent with conventional lending practices, but employs a number of tribal members, it may very well be a sound investment for the tribe. This does not imply that financial expertise and advice should not be offered. It simply means that bankers must recognize that their rules are not the only factors relevant in a given situation and consideration should be given to employment of more flexible practices. So long as a loan has an identified source of repayment, other external guidelines of credit-worthiness ought not to be arbitrarily imposed.

Reservation boundaries form a barrier to sound banking practices. A practical effect of this misconception is that bankers forgo opportunities without exploring alternate means of satisfying restrictive underwriting guidelines.

Historically, reservation economies have been driven by tribal government and dominated by tribally-owned enterprises. Numerous assets considered necessary for economic development (e.g., adequate physical infrastructure and housing) have been absent. The need for various types of financing are legion.

When banks might have been players, however, they have often backed away in the belief that a tribes sovereign immunity and/or the trust status of land prevents adequate security. The key here is understanding (and perhaps redefining) what is considered "adequate." Some remedies are straightforward; others require imagination.

Sovereign immunity means that a sovereign entity may not be sued except with its permission. The doctrine protects public assets, or, in the case of a tribe, assets held in trust for tribal members. However, sovereign immunity has been selectively waived by federal and state governments and can also be selectively waived by tribes. For example, a tribe can establish a subordinate or separate entity for purposes of a specific transaction and may waive the subordinate entity's immunity without affecting the sovereign status of the tribe.

To allay concerns about the trust status of land, the tribe may pledge cash flow of an otherwise unrelated enterprise as repayment for a loan to expand a business on trust land. If the loan is made to an individual, the tribe may guarantee the mortgage by committing itself to buying out a defaulting borrower. In either event, the bank's capital is protected and the tribe is able to satisfy its community development purposes.

The Community Reinvestment Act is designed to benefit only underserved communities. A practical effect of this misconception is that bankers not directly associated with CRA activities may fail to understand the profit potential of doing business in Indian Country. Business outreach to all American citizens and to Native American tribes will pay dividends to bank shareholders and benefit all the stakeholders in the "mainstream" economy.

The stable economic base in Indian Country is more than gaming and extends beyond the historically-identified natural resource businesses owned by the tribes. A stable economic base includes a healthy private sector, combining competitive capability with culturally consistent values. Contrary to a widely held perception, the Internal Revenue Service does tax economic activity on Indian reservations. Prior to the explosion in gaming revenues and the now rapid growth of private enterprise, reservations were yielding over $10 billion per year in revenue to the federal government. Reservations are net contributors to federal, state and county governments.

Beyond gaming, Indian tribes throughout the United States continue to hold title to significant natural resources--timber, minerals and energy reserves. These include 44 million acres in range and grazing land, 5.3 million acres of commercial forest, 2.5 million acres in crops, 40% of U.S. uranium reserves and 30% of western coal reserves. Though shamelessly exploited by non-Indians throughout this century, these resources are now being more aggressively managed by Native people. Many tribes have achieved new levels of sophistication in the past decade and will not release these resources to market in the absence of appropriate compensation and safeguards. Banks which have good relationships with tribes will reap the benefits of resulting trust deposits and future financing opportunities.

One of the most exciting developments in Indian Country today is the emergence of a private sector which will raise community standards of living and form the basis for wealth-creation through community capital development. Native Americans now have the lowest per capita business ownership rate of any community tracked by the U.S. Department of Commerce. In the Pacific Northwest, Native Americans own fewer than 9 businesses per thousand people versus 59 and 65 businesses per thousand among white citizens of Washington and Oregon respectively. Organizations like the Oregon Native American Business and Entrepreneurial Network (ONABEN) and its offspring, the Native American Business Network (NABN) in Washington, are making a systematic and aggressive assault on this statistic.

In just three years, ONABEN's program graduates have increased the number of Native American-owned businesses in Oregon by approximately 35%. These new business are adding approximately $7 million per year to the gross state product of Oregon. With the assistance of regional banking partners like Seafirst Bank, Key Bank of Washington, U. S. National Bank and others, ONABEN and NABN are targeting approximately 250 healthy new business starts in the next three years.

Privately owned Native American businesses currently contribute almost $100 million per year to the northwest economy. Estimates indicate that the Native American community could contribute over $1 billion by reaching the average business ownership rates in these states. New employment measured in thousands of jobs can be reliably forecast. In addition, added tax revenues for state and local governments will significantly improve the financial stability of struggling jurisdictions. Clearly, a case can be made that ignoring the business opportunity in Indian Country is contrary to the best interests of bank stockholders.

Recommendations:

- Understand that Native American communities will succeed on the basis of their historical identities and not as a function of becoming assimilated in white America.
- Recognize that a successful relationship with a Native American community begins with under-standing that individual community's aspirations. Commit your expertise to helping them realize their aspirations. Creative solutions will serve both the banks and the tribe's enduring interests.
- Pick a niche where you can make a genuine contribution. From government finance to small business lending, the needs are significant in Indian Country. Focus on a particular area rather than posturing as the all-purpose provider.

- Finally, make a commitment for the long term. Pledge human and financial resources to understanding your Native American customer base. Access to capital alone is not sufficient to create a profitable relationship with Native American communities.

Successful interaction between Indian Nations and the banking community depends on each understanding their common interests while respecting their profound differences.

About the Author:

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Community Investments Vol. 8, Issue 3 Small Banks Respond: How We Prepared and Fared Under the New CRA Exam Procedures

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Many small financial institutions have been examined under new CRA rules that became effective in early 1996. The following is a report from two of those institutions, Cache Valley Bank (Logan, Utah) and Mid-Peninsula Bank (Palo Alto, California). The Fed's roving CRA reporter, Shawn Elliott, asked the two banks how they prepared for those examinations and whether the preparation was useful. We would like to thank Dennis Durfee, Vice President and Compliance Officer of Cache Valley Bank and Susan Black, Executive Vice President and CRA Officer of Mid-Peninsula Bank for their candid responses to our questions. Also included is commentary by Gilberto Cooper and Millie Castillo, examiners-in-charge of the CRA/consumer compliance examinations for those institutions.

Hundreds of small banks have yet to be examined under the new regulation. If your bank is one of them, read on... we think you'll find the honest opinions and examination preparation tips most helpful.

Q. In preparing the performance context for your institution, examiners looked at peer group data. Did bank management define the banks peer group? If not, why not? If so, did management include credit unions and finance companies in the peer group? Did management share peer group information with the examiners? If so, was this a helpful exercise?

Cache Valley Bank: Management compiled two different peer group comparisons in preparation for the bank's safety and soundness examination. The first comparison was taken from the Uniform Bank Performance Report (UBPR) and the second was comprised of information from three local financial institutions, including a credit union. During the compliance examination, the analysis was reviewed by examiners; we are unsure what benefit this analysis provided to the compliance examination process.

Cache Valley Examiner: As part of the pre-examination preparation, the financial data of similarly situated banks was reviewed to help develop the performance context for the bank's CRA examination. This peer review included banks of similar asset size, structure, and with similar market characteristics. Cache Valley Bank management had performed a similar review using banks located in Utah. Discussion with management regarding the results of its peer analysis and management's insights regarding the local banking market (i.e., market concentrations and niches, competition for deposits) was helpful to our staff in developing the context within which the bank operates.

Mid-Peninsula Bank: Mid-Peninsula Bank defines its peer group as commercial banks located in the Bay Area with a focus on business banking. The peer group does not include finance companies and credit unions. Management tracks and compares the banks performance to that of the peer group; these comparisons were not discussed with the examiners. Examiners used a broader approach and identified a state-wide peer group utilizing the UBPR.

Mid-Peninsula Examiner: As part of the pre-examination procedures, the UBPR was reviewed to gauge the bank's performance against its peers. To develop the bank's performance context accurately, we also reviewed other financial data produced by the Fed; this data was more relevant since it included local banks that are similarly situated based on asset size, location and number of branches.

Q. What factors did management consider when developing the banks assessment area? Although not required, did the bank conduct any kind of geographic analysis of loan distribution in its efforts to define its assessment area? If so, were a majority of those loans located within the anticipated assessment area?

Cache Valley Bank: In establishing the assessment area, the bank has historically determined the geographic area that we can logically expect to serve based on customer convenience. Over the past several compliance examinations, examiners have questioned the bank's ability to serve some of the outlying areas included in our delineation, and, as a result, the bank has "pulled in" its boundaries. During the most recent compliance examination, however, the assessment area was not questioned and management was not obliged to make any adjustments.

Bank management used a zip code listing of loans to analyze loan location and determined that 92% of our loans were made within the Assessment Area. This analysis was informal and somewhat rough, as the system uses mailing addresses, which does not necessarily reflect the location of the loan. The analysis did give us some confidence that the proportion of loans made within the assessment area is reasonable.

Cache Valley Examiner: The results of the bank's analysis were confirmed by the examiners' analysis which was based on block numbering areas (BNAs) designated by the Census Bureau. BNA information is often more useful that zip code information because it includes demographic data such as income, number of households and population size which are helpful in determining the banks penetration into areas of various income levels.

Mid-Peninsula Bank: The bank's delineated community was previously defined as those communities within a seven mile radius of our three offices. To meet the requirements of the new regulation, which indicates that an institution's assessment area must include whole census tracts or BNAs, we expanded our service area to include whole census tracts within each city we serve. The philosophy of Mid-Peninsula Bank is to serve the businesses in the communities in which we are located. As a result, the majority of our loans are within close proximity. Geographic analysis and mapping of the bank's loan portfolio confirmed that over 70% of our loans were within the assessment area.

Q. If loan data were collected and analyzed, did bank management identify any "conspicuous gaps" in lending patterns? If so, how were these addressed?

Cache Valley Bank: No analysis of loan data was conducted prior to the examination. Management was not aware of any lending gaps that may have existed.

Cache Valley Examiner: Lending gaps were identified during the examiners' geographic analysis of a statistical sample of the banks commercial loans, but were later determined to be reasonable. The examiners' analysis of the sample found that no loans were extended in the one low-income BNA within the bank's assessment area. Upon review, however, it was determined that this BNA is sparsely populated and located in a national forest. Overall, the bank's distribution of loans by BNA income level was considered reasonable.

Mid-Peninsula Bank: Loan data is collected, analyzed and mapped semi-annually. The only conspicuous gaps identified were in areas with limited business lending opportunities (i.e., residential census tracts, the airport, a correctional facility, a university campus, etc.). This information was discussed with the examiners and included in the report of examination. It was very helpful to have identified and analyzed this information prior to the examination.

Mid-Peninsula Examiner: Bank examiners noted several conspicuous gaps in reviewing loan data, which resulted in further research and clarification by bank management. The bank substantiated the cause of these lending patterns, which were due primarily to the bank's focus on business lending and justifiable low level of penetration in residential neighborhoods.

Q. What percentage of the banks loans and, as appropriate, other lending-related activities did management expect to be originated within the bank's assessment area to reasonably meet standards? Did (or does) the bank engage in other lending-related activities? Can you provide examples?

Cache Valley Bank: We intend for a high percentage of loans to be made within the bank's assessment area, and, as a small community bank, we believe it is necessary to originate loans in the local market. These loans strengthen the local economy, help create jobs and strengthen the banks customer base.

Cache Valley Examiner: The examiners' analysis of the statistical loan sample confirmed that the majority of the bank's credit extensions were within the banks assessment area.

Mid-Peninsula Bank: The bank attempts to maintain at least 70% of its loans within the assessment area. A geographic analysis of our total loan portfolio confirmed that 71% of all loans fall within this area. We also participate in a loan consortium, Lenders for Community Development (LCD), and lend through LCD's two loan pools--one for affordable housing and one for micro-lending to small businesses. Lenders for Community Development has just expanded its operating area from Santa Clara County and East Palo Alto to include all of San Mateo County. We believe this will enhance our ability to provide additional loans within our assessment area going forward.

Mid-Peninsula Examiner: The examiners' analysis of the geographic distribution of small business loans indicated that an exceptional portion of the bank's credit extensions were made within the assessment area.

Q. Does management believe that the bank's loan-to-deposit ratio is reasonable? Did bank management advise examiners of other factors such as sales to the secondary market and/or seasonal fluctuations which have an impact on the loan-to-deposit ratio? What specific economic data does the bank regularly receive/collect in this regard?

Cache Valley Bank: Management's goal is to maintain a loan-to-deposit ratio in the 70%-85% range. Compliance examiners determined this range to be "satisfactory" while safety and soundness examiners have argued that the ratio is substantially above the peer group level. The bank operates in a market that is experiencing a strong, growing economy. Loan demand has been good, creating a very competitive deposit market and producing higher than average loan-to-deposit ratios. Management monitors loan and deposit growth closely. The bank has not experienced substantial seasonal fluctuations which would impact the loan-to-deposit ratios; however, loans are routinely sold to the secondary market out of economic necessity.

Cache Valley Examiner: The examiners' review of deposit data for Cache County revealed that branch banks have a sizeable majority of the area's deposits. As a result, smaller banks face stiff competition for deposits. Accordingly, a contributing factor to Cache Valley Banks high loan-to-deposit ratio is the tough competition for deposits within its assessment area.

Mid-Peninsula Bank: The bank's loan-to-deposit ratio was 64% at the end of 1995, 69% by the end of February 1996 and averaged 64% over the last two years. While a higher loan-to-deposit ratio is desirable, management believes the existing ratio is reasonable.

Mid-Peninsula Examiner: Comparison of the bank's loan-to-deposit ratio to its peers indicated that the ratio is satisfactory. During discussions with bank management, it was agreed that given the banks financial capacity, the ratio could be increased.

Q. Did management conduct any analysis of the income level of borrowers or size of small businesses prior to the bank's CRA examination? If so, was this analysis useful? How did the banks analysis compare to that of the examiners?

Cache Valley Bank: The bank has not conducted an analysis of the income level of borrowers or the revenue size of small business borrowers. The bank's community is a rural area dominated by small businesses. According to 1990 census data, all of the bank's assessment area falls in the low-to-moderate income category with only one part, a sparsely populated National Forest, designated as low income. During the compliance examination, and in follow-up correspondence, the examiners suggested that the bank may want to capture borrower income and business revenue data for all of our lending activity.

Cache Valley Examiner: While management did not review the income level of its borrowers, examiners collected information regarding the revenue size of the bank's business borrowers as represented by the statistical loan sample. This information was used to determine the bank's CRA performance in lending to small businesses, defined as those with annual revenue of less than $1 million. In this regard, the bank's level of lending to such businesses met the standards for satisfactory performance.

Mid-Peninsula Bank: As a business lender, revenue is analyzed as part of the credit decision and monitored by an account officer. The bank has not separately tracked this information for compliance purposes. The examiners obtained this information directly from credit files during the course of the examination.

Mid-Peninsula Examiner: During the examination, examiners collected information on business revenue size, since Mid-Peninsula Bank is primarily a small business lender. A review and analysis of the data indicated that the bank's record of lending to businesses of different sizes was outstanding.

Q. Did management consider pursuing an outstanding rating? What factors did management use in reaching this decision?

Cache Valley Bank: Management's goal is to maintain a satisfactory CRA rating. In a small institution, management's time is critical, and the effort required to reach an outstanding rating does not always equal the reward. We believe that time and effort spent on other bank functions pays greater dividends in the day-to-day operation of the bank. Our philosophy is: "If we take care of our customers and manage the bank on sound principals, we will, by necessity, serve the community--and a reasonable CRA rating should follow."

Cache Valley Examiner: A bank's performance under the CRA must be managed, as must any regulatory aspect of a bank's operation. Management's CRA strategy should be revisited periodically to ensure that the needs of both the bank and its assessment area are being met. In particular, bank management must ensure that given its present resources, performance with CRA is at its best.

Mid-Peninsula Bank: Mid-Peninsula Bank received an outstanding rating in the two previous CRA exams. The CRA program is an integral part of our business plan and we are committed to continuing this tradition of excellence. Preparing for the examination was challenging since many areas of the revised regulation appear to be open to interpretation. To be considered for an outstanding rating, we prepared information regarding the bank's qualified investments and services which was not required under the small institution examination procedures. The examiners were very helpful in providing clarification and suggestions about the revised regulations.

Mid-Peninsula Examiner: Since the bank has received an outstanding CRA rating for the past two examinations, we were asked to evaluate the bank's performance with consideration for an outstanding rating. Under the revised rules, there are two methods by which a bank can merit outstanding performance. First, the institution must meet the requirements for a satisfactory rating under the five performance criteria and materially exceed the standards in one or more of the criteria. Second, at the institution's option, the examiners will evaluate its investments and services. Consequently, strong performance in investments and services can potentially raise a "satisfactory" CRA rating to "outstanding." However, this activity cannot raise a "needs to improve" rating to a "satisfactory" rating.

Examiners determined that the bank met standards for satisfactory performance in all five performance criteria, and exceeded standards in the category of geographic distribution of loans. The bank's investments and services were then evaluated to ascertain whether an outstanding rating was warranted. Examiners determined that the bank's investments were innovative and complex, and that the bank's commitment and dedication to Lenders for Community Development (LCD) and Community Bank of the Bay (CBB) greatly enhanced the banks ability to maintain an outstanding rating. Moreover, management was commended for allocating sufficient resources to ensure that the local community credit needs were met.

FEDERAL RESERVE BANK OF SAN FRANCISCO

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The CRA Strategic Plan Option: Should We Bother?

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We have all heard examiners and consultants espouse the virtues of the Strategic Plan, but why should we consider the Strategic Plan Option (SPO) as a method for measuring compliance with the Community Reinvestment Act? What factors need to be considered in choosing the best method of measuring compliance with the CRA? I have asked myself and others these questions many times, and the answers vary widely. Banker's reactions to the SPO, and whether to consider it, have become almost comical. They include "You must be crazy," "It's too expensive to develop a Plan," and "Publicly stating our lending goals for our competitors to see? Allowing public comment on our goals? No way!"

Examiners and consultants, on the other hand, are consistent in their support of the SPO. Some examiners "sell" the SPO like used car salesmen. Whether it is the right car for us is not their concern. Others take a more helpful approach, presenting the benefits of the SPO and acknowledging that it is not the right choice for every bank. Since the release of the new CRA examination guidelines, examiners have presented the SPO as an opportunity for banks to: (1) design their own CRA test; (2) remove examination uncertainty; and (3) remove or reduce examiner subjectivity.

Many consultants understand the huge undertaking necessary to develop a CRA Strategic Plan and will help an institution evaluate whether the Plan is a viable option and whether it is appropriate for that institution. Others are less thoughtful in their analysis, and simply recommend the SPO without a solid review of whether the SPO is the best choice for the bank.

So whats a bank to do? Who do we listen to? I say listen to everyone. They are all correct. The SPO is a choice worthy of consideration. This view is based on a number of factors, including the information presented by examiners, consultants and bankers, and our situation at Silicon Valley Bank (SVB).

I strongly disagree with anyone who believes that satisfactory performance under the old examination guidelines means satisfactory performance under the new guidelines. This opinion equates effort with results. While there is usually a relationship between effort and results, it is not absolute. The old guidelines required that, among other things, we ascertain the credit needs of our delineated community. The new regulation is performance-based, measuring how well we meet those needs, a totally different measurement of performance. However, it seems likely that if your bank did not perform well under the old guidelines it will not perform well under the Large Retail Bank test.... unless you are extremely lucky.

I have also heard people say that banks no longer need to ascertain credit needs. This is absolutely not the case. These people may have a naive view of what it takes to run a successful business. We must continue to ascertain needs. How can any bank be responsive to credit needs without knowing what they are? It is true, however, that we no longer need to document our ascertainment efforts.

Finally, I must also disagree with those who believe that the CRA compliance burden has been significantly reduced with the changes in the examination procedures. While it is true that we no longer need to document our every "CRA activity" and contact, we do need to increase our record keeping and loan tracking. This record keeping is necessary to meet the new data reporting requirements of the regulation and to periodically measure performance. Because the new guidelines require data collection and reporting, they appear to reduce examiner discretion; they also provide banks with an increased opportunity for self assessment. However, until we have gone a few rounds under the new guidelines and resolved most of the open questions (such as what constitutes a "substantial majority"), self evaluation will not be an exact science. Additionally, banks may want to record and analyze data regarding loans that are not reportable in order to uncover all loans that meet the stated goals of the CRA.

These reactions and opinions, combined with the products and services offered by SVB are the basis for my view of the SPO. SVB serves emerging and middle-market growth companies in specific targeted niches. SVB is committed to its focus on technology and life science industries, while identifying and capitalizing on opportunities to serve other groups of clients with unique financial needs. SVB provides the majority of its clients with cash management, international trade, factoring, asset-based finance and other services designed to meet their changing needs as they progress through their business life cycle.

While the SPO is a choice worthy of consideration, I recognize that it is not the correct choice for every bank. So what bank is the SPO designed for? The first question each bank must ask is no surprise: "How will we fare under the standard Large Retail Bank test?" If your answer is clearly satisfactory or better, the SPO is not for your bank. No bank should go to the extra trouble and expense of preparing a strategic plan if its CRA record can stand on its own. How can you come to the conclusion that your bank's performance under the new examination procedures will be considered clearly satisfactory by your compliance examiner? Self evaluation against the new procedures, that's how. An accurate self evaluation may be difficult, however, because the examination guidelines are new and untested, and because the guidelines provide as many questions as they do answers.

Performance under the Lending Test may be measured, at least in part, by analyzing the percentage of loans your bank has made in its assessment area (which may or may not be the same as your delineated community), including small business loans. This may be difficult for those banks that do not geo-code their non-HMDA reportable loans. Also, while most banks obtain revenue information during the commercial credit application process, many banks do not have a system that allows for easy evaluation of the revenue size of commercial loan clients. But once the geographic and revenue information is combined into one database, you will have all of the information required to measure past performance under the Lending Test and then, if needed, to develop measurable goals for a Strategic Plan. This information includes the number of loans made within your assessment area, the number of loans made in low-and moderate-income census tracts, and the number of small business loans your bank has made within and outside your assessment area. A bank can develop projections for the future by analyzing this data--projections that may serve as measurable goals for a Strategic Plan.

Although the new CRA is heavily weighted on lending performance, setting measurable goals under the Service and Investment Tests is also necessary if you choose the SPO. Measuring lending performance and setting goals by analyzing geographic and revenue data is possible but analyzing performance and setting goals under the Service and Investment criteria may prove more difficult. A key factor in measuring performance in these areas is the development of an accurate performance context for your institution. While the performance context of your institution will impact your entire examination, the value of your investments and services may be disproportionally affected by an inaccurate definition of your performance context. Although the examiners must develop the context under which an institution will be evaluated, a bank may want to report additional information that the examiners need to know to properly evaluate the bank's performance. Examiner acceptance or consideration of the context you create for your institution may play a key role in your CRA rating and may help your bank gain approval of its Strategic Plan.

After conducting these analyses and developing a plan, a bank has two more obstacles to overcome: public scrutiny and regulatory approval. After developing a Plan and allowing for the consideration of public comment, there is no guarantee of regulatory approval. A recent article in the American Banker reported that eight banks had submitted Strategic Plans for regulatory approval to the FDIC or FRB, only to have them rejected for failing to set precise enough goals. This has discouraged other lenders from pursuing the SPO, especially considering the sensitivity around release of strategic information to their competitors. Providing the specificity of goals necessary to gain approval of a Plan could provide competitors with an edge that many banks are unwilling to allow.

A satisfactory CRA rating is important to banks for a variety of reasons, but especially for those with expansion or contraction plans, those that hope to participate, at any level, in the industry's current game of Pac Man and those interested in becoming active in interstate branching. While Silicon Valley Bank has not committed to the SPO, we believe that a full consideration of it, as well as other examination alternatives, is necessary to minimize the risk of regulatory intervention in our bank's business plans.