

FEDERAL RESERVE BANK
OF NEW YORK

[Circular No. 8382]
July 7, 1978]

PROPOSED NEW REGULATION IMPLEMENTING
THE COMMUNITY REINVESTMENT ACT OF 1977

*To All State Member Banks, and Others Concerned,
in the Second Federal Reserve District:*

In conjunction with the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System has announced proposed regulations to implement the Community Reinvestment Act of 1977. Printed below is the text of a statement issued by the Board of Governors on behalf of the four agencies, containing the announcement:

Federal regulators of banks and savings and loan associations today [June 30] announced proposed regulations to implement the Community Reinvestment Act.

The agencies requested comment by August 15, 1978. Comments should be directed to Theodore E. Allison, Secretary, Federal Reserve Board, Washington, D.C. 20551.

The CRA statute requires the four agencies to:

1. Encourage institutions they regulate to help meet the credit needs of their communities, including low and moderate income neighborhoods, consistent with safe and sound operations;
2. Assess the records of the institutions they regulate in meeting the credit needs of their communities;
3. Take such assessments into account when considering applications by the institutions for branches, mergers, charters, deposit insurance, holding company acquisitions and office relocations.

The CRA calls for the four agencies to have regulations implementing these requirements in effect by November 6, 1978.

The regulations proposed by the four agencies are identical in their substantive provisions, but they contain technical variations that relate to the fact the agencies regulate different categories of financial institutions. Each agency is promulgating its proposed regulation separately. Each regulation is preceded by a preamble setting forth in identical language the main provisions of the proposed regulation. The common preamble, and the substantive and identical portions of the four regulations are attached.

The agencies proposed, pursuant to the Community Reinvestment Act, to require the Board of Directors of each regulated lender to adopt (not later than 90 days after the CRA regulations are in effect) a CRA Statement.

The CRA Statement would:

—Delineate—with the aid of guidelines provided in the agencies' regulations—the “entire community” the lender serves (lenders would be encouraged to use a map in delineating the community they serve);

—Specify the types of credit the lender is prepared to extend to its community.

The CRA Statement may also contain information describing how the institution's programs relate to its communities. Institutions are encouraged to include a periodic public accounting of their records of meeting community credit needs. The Statement would have to be reviewed at least annually by the lender's board of directors.

Lenders would be required to give notice in the public area of their offices that the CRA Statement is available for inspection. Public comments would be kept for two years, and would be reviewed by the lender's supervisory agency when it is assessing the lender's record.

The agencies proposed a list of factors their examiners would use in assessing a lender's record of helping to meet its community's credit needs, and a statement of the types of applications that would be affected.

The agencies requested comment specifically as to whether small lenders (assets under \$10 million) not located in metropolitan areas should be exempted from providing the CRA Statement.

In making their proposals the agencies said:

"The agencies believe that it is more likely that community credit needs, which can be met on a safe and sound basis, will be met when members of the community are aware of the availability of credit, the lending institutions are well informed about community credit needs, and such institutions make a sincere effort to meet those needs.

"Institutions are encouraged to offer the types of credit and credit-related services that will meet the credit needs of their communities. The regulators, however, would not require institutions to offer particular kinds or amounts of credit. It is the purpose of the proposed regulations to encourage each institution to help meet the credit needs of its entire community while preserving to every institution the flexibility necessary to operate in a safe and sound manner, and to serve the convenience and needs of its community effectively and imaginatively."

The agencies proposed to include the following guidance on community delineation:

Many factors determine a lender's community, including the size of the lending institution, geographic factors, and economic forces. An institution's entire community may consist of more than one local community. Lenders should include local communities consisting of the contiguous areas surrounding each office or group of their offices, without excluding low or moderate income neighborhoods. As bases for delineating communities, the agencies proposed that lenders might use Standard Metropolitan Statistical Areas (SMSAs), counties or their "effective lending territories."

The agencies are also considering modifications to their existing application procedures concerning public notice and opportunity to be heard.

The agencies' proposals reflect much of the oral testimony and written comment received in a number of hearings held throughout the country by the regulators to help them develop their regulations.

The preamble setting forth the main provisions of the agencies' proposed regulations and the common substantive portions of the regulations, are attached. The full proposed regulations may be obtained from the agencies upon request.

Enclosed, for State member banks, is a copy of the proposed regulatory preamble and of the other common portions of the proposed regulation, referred to above. Comments on the proposal should be submitted by August 15, 1978, and may be sent to our Consumer Affairs and Bank Regulations Department.

The full text of the proposed regulation should soon be available and may be obtained from the above-named department.

PAUL A. VOLCKER,
President.

June 30, 1978

Community Reinvestment Act Regulations

AGENCIES: Board of Governors of the Federal Reserve System, Comptroller of the Currency, Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board.

ACTION: Proposed regulations

SUMMARY: These regulations would implement the Community Reinvestment Act of 1977, which directs the named agencies to encourage the institutions they regulate to fulfill their continuing and affirmative obligation to help meet the credit needs of their communities, including low- and moderate-income neighborhoods, consistent with safe and sound operation of such institutions, and to assess their record in doing so and take such assessments into account when evaluating certain applications by such institutions.

COMMENTS MUST BE RECEIVED BY: August 15, 1978

ADDRESS: Please send four sets of comments to: Theodore Allison, Secretary to the Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

FOR FURTHER INFORMATION, CONTACT: Robert Lawrence, Board of Governors of the Federal Reserve System: 452-3766; Alan Herlands, Comptroller of the Currency: 447-1177; Roger Hood, Federal Deposit Insurance Corporation: 389-4628; Nancy Feldman, Federal Home Loan Bank Board: 377-6404.

PREAMBLE TO COMMUNITY REINVESTMENT ACT REGULATION

Supplemental Information: The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board (collectively referred to as "the Agencies") propose this regulation to implement the Community Reinvestment Act of 1977 ("the CRA"). The CRA, which was enacted as title VIII of the Housing and Community Development Act of 1977 (P. L. 95-128), requires that in connection with their examination of institutions in their jurisdiction, the Agencies assess each institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the institution. The CRA further requires that the appropriate Agency take that record into account in its evaluation of any application by the institution for a charter, deposit insurance, branch or other deposit facility, office relocation, merger, or acquisition of bank or savings institution shares or assets.

The agencies announced, in notices published in the Federal Register on January 25, February 21, and March 29, 1978 [cites] a series of hearings to be held around the country. The January 25, 1978, notice contained questions regarding issues raised by the CRA, and all the notices requested testimony and written comments to aid the Agencies in drafting regulations. Substantial amounts of oral testimony and written submissions were accepted and reviewed and much of that material is reflected in the following proposals.

Community Reinvestment Act Statement.

(a) Within 90 days after the effective date of this Part, the board of directors of each institution shall adopt a clear and concise Community Reinvestment Act (CRA) Statement and shall provide in each of its offices having interior public space, a notice that a copy of the current statement (and, if the statement is drawn separately for local communities, the portion pertaining to such office's community) is readily available on request. The notice shall also indicate that interested persons may submit to the institution or to the [agency's supervisory authorities] in the district where the institution is located, with officials' titles and addresses provided, written comments pertaining to the information contained in the Statement. In addition, a CRA Statement shall have been adopted by the time an application enumerated in § _____ is submitted.

(b) The CRA Statement shall include at least the following:

(1) the delineation of the entire community and local communities, if any, as adopted by the institution; and

(2) a list of specific types of credit within certain categories, such as, residential loans for 1-to-4 dwelling units, residential loans for 5 dwelling units and over, housing rehabilitation loans, home improvement loans,

small business loans, community development loans, commercial development loans, and consumer loans, which the institution is prepared to extend to its entire community or local communities.

(c) The Statement may contain any additional information the institution considers helpful in describing how its efforts, including special programs, relate to meeting types of credit needed by its community.

(d) The institution is encouraged to provide, as part of its CRA Statement a periodic public accounting of its record of meeting community credit needs.

(e) The institution's board of directors shall review each CRA Statement at least annually, and shall approve any material changes whenever made. Such actions shall be noted in its minutes.

(f) The institution shall maintain a public file of all CRA comments received for, at a minimum, the two most recent calendar years, and all CRA Statements in effect during those years.

Assessing the Record.

In connection with its examination of an institution, the [agency] shall assess the record of the institution in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the institution. The [agency] will review the institution's

CRA Statement and marketing and lending policies and practices to determine whether they are designed to help meet those needs, and assess its record of performance. The [agency] will consider the following factors in assessing an institution's record:

- (a) activities conducted by the institution to ascertain the credit needs of its entire community;
- (b) the extent to which the institution has attempted to consult with members of local communities on the institution's plans and policies relating to credit services offered to those communities;
- (c) the extent and effectiveness of the institution's marketing programs and special services to make members of the community aware of the credit services offered by the institution;
- (d) evidence of discouragement of applications for types of credit set forth in the institution's CRA Statement;
- (e) the extent of participation by the institution's board of directors in formulating and reviewing the institution's policies and performance with respect to the Community Reinvestment Act;
- (f) the geographic distribution of the institution's loans;
- (g) the institution's participation, including investments, in government-sponsored local community development projects or other local community redevelopment programs;

(h) the institution's origination of residential mortgage loans, housing rehabilitation loans, home improvement loans, commercial real estate loans, and similar loans within its entire community, or the purchase of such loans originated in its community;

(i) the institution's participation in governmentally-insured, -guaranteed, or -subsidized housing or small business loan programs;

(j) the institution's history of prohibited discriminatory or other illegal credit practices, if any;

(k) the institution's history of opening and closing offices and providing services at offices;

(l) the institution's history of lending to both existing community members and new residents of the community;

(m) the institution's ability to meet various community credit needs based on its financial condition, size, legal impediments, and local economic and other factors; and

(n) such other factors as may, in the [agency]'s judgment, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

Applications procedures.

[To be done individually by each agency.]

Community Reinvestment Act Regulation

Authority

[To be done individually by each agency.]

Purpose

The purposes of this regulation are to require institutions to demonstrate that their offices serve the convenience and needs of their communities; to provide guidance to institutions as to how the agencies will assess the record of institutions in satisfying their continuing and affirmative obligations to help meet the credit needs of their local communities, including low- and moderate-income neighborhoods, consistent with safe and sound operation of such institutions; and to provide for taking into account those records in connection with certain applications.

Delineation of entire community.

(a) Each institution shall prepare, and at least annually review, a delineation of the geographic area(s) comprising its entire community. The use of maps is encouraged.

(b) An institution's entire community may consist of more than one local community. More than one office of an institution may serve the same local community. Institutions shall delineate local communities consisting of the contiguous areas surrounding

each office or group of offices, without excluding low- and moderate-income neighborhoods. In preparing its delineation, an institution shall consider the following.

(1) Existing boundaries such as those of Standard Metropolitan Statistical Areas (SMSAs) or counties may be used and, where appropriate, portions of adjacent areas may be included. The institution may make adjustments in the case of areas divided by state borders or significant geographic barriers, or areas which are extremely large or of unusual configuration. In addition, a small institution may delineate those portions of SMSAs or counties which it reasonably may be expected to serve.

(2) An institution may use its effective lending territory, meaning that area or areas around each of its offices where it makes a substantial portion of its loans and all other areas equidistant from its offices as those areas, with such adjustments as may be made under paragraph (b)(1) of this section.

(3) An institution may use any other reasonably-delineated area which meets the purposes of the Community Reinvestment Act (CRA), and does not exclude low- and moderate-income neighborhoods.

It is the purpose of the CRA to require the Agencies to encourage institutions to help meet the credit needs of their local communities consistent with safe and sound operations. The Agencies believe that it is more likely that community credit needs, which can be met on a safe and sound basis, will be met when members of the community are aware of the availability of credit, the lending institutions are well informed about community credit needs, and such institutions make a sincere effort to meet those needs.

Accordingly, the proposed regulations are designed to encourage institutions to become aware of the full range of credit needs of their communities and to seek the views of all segments of their communities regarding those needs. Institutions are encouraged to offer the types of credit and credit-related services that will meet the credit needs of their communities. The regulations, however, would not require institutions to offer particular kinds or amounts of credit. It is the purpose of the proposed regulations to encourage each institution to help meet the credit needs of its entire community while preserving to every institution the flexibility necessary to operate in a safe and sound manner, and to serve the convenience and needs of its community effectively and imaginatively.

The Agencies' proposed regulations, which are presented together for convenience, are identical in their substantive provisions, but contain procedural variations. An explanation of the provisions of the regulations, how they operate, and why they were chosen, is set forth below.

Authority

Each Agency's regulation sets forth that Agency's authority to adopt its regulations.

Purpose

The statement of purpose is adopted from the CRA. A discussion of this purpose is set forth above.

Community

The Agencies believe that there are many factors which determine a lender's community, including the institution's size, geographic factors, economic forces, and local tradition. No single definition or rigidly-applied rule, therefore, would be appropriate to all communities and institutions. Accordingly, the proposed regulation would direct each institution to delineate its entire community with the aid of broad guidelines. The delineation would be available to members of the public who could offer their comments and suggestions to the institution and to the institution's supervisory agency. Agency examiners would review each institution's delineation and any community comments to ensure that no

areas, including low- and moderate-income neighborhoods, are unreasonably excluded from the delineation, and that the delineation is not so broad that the institution fails to focus on its local community.

The term "office," as used in the regulation, includes electronic deposit facilities unless it is otherwise modified.

Community Reinvestment Act Statement

The board of directors of each institution would be required to adopt a Community Reinvestment Act ("CRA") Statement. The CRA Statement would include the institution's delineation of its community and a list of the types of credit that the institution would offer to members of its communities. The Statement would be required to be made available to the public. Where an institution has offices serving more than one local community, it would delineate those communities and could adapt its Statement to the needs of each community.

The purposes of requiring a Statement would be to ensure that each institution's board of directors considers the purpose of the CRA and what their institution's response will be, to inform the community of the types of credit that the institution offers, and to aid the agencies' examiners in assessing each institution's record. If an institution believes that the purposes of the CRA Statement would be better served, it may incorporate additional material, such

as a description of how its efforts, including special programs, relate to meeting types of credit needed by its community.

The Agencies believe that institutions are aware of the areas they serve and have well-articulated internal loan policies. The Agencies, therefore, believe that adoption of a CRA Statement would not be burdensome to institutions. However, the Agencies invite particular comment on whether institutions with assets of less than \$10 million located outside standard metropolitan statistical areas should be exempted from the written Statement requirement unless the Agencies impose it as a supervisory requirement in individual cases.

Institutions are required to review their Statements at least annually. They are encouraged to review their statements in light of community comments and their experience with offering various types of credit and to provide as part of the Statement a public accounting of their efforts to meet community credit needs.

To aid Agency examiners and the public, each institution is required to keep a file of all CRA Statements in effect over the previous two years and of all public comments received during that period. Agency examiners would review the Statement and the file in connection with their assessment of each institution's record.

Assessing the Record

The CRA requires the Agencies to assess each institution's record of meeting the credit needs of its entire community including low- and moderate-income neighborhoods. The proposed regulation would provide for that assessment and set forth a list of factors that the Agencies would consider in making the assessment. The list is only intended to be indicative of the evidence that the Agencies would consider. Institutions may serve their communities in ways not reflected in the list and need not adopt particular activities specified in the list.

Examination procedures, to be issued later by the Agencies, will be publicly available. The Agencies will consult with state supervisory authorities regarding the assessment process.

Effect on Applications

The CRA requires the Agencies to take an institution's record into account in acting upon certain applications involving that institution. This section would implement that requirement and list the particular applications to which each Agency's regulation applies. The Agencies would consult with state supervisors regarding applications involving state-chartered institutions.

The regulations of the Federal Reserve Board and the Federal Home Loan Bank Board would provide that those Agencies

may consider the credit-granting record of non-depository subsidiaries of a holding company that is making an application covered by the CRA to the Agency.

The Agencies are considering modifications to their existing application procedures concerning public notice and opportunity to be heard with respect to applications covered by the CRA.

Accordingly, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board, propose to amend 12 CFR Parts 25, 228 and 345, and add Part 563e, to read as set forth below.