

FEDERAL RESERVE BANK
OF NEW YORK

At Circ No. 8434
October 13, 1978

REGULATION BB

New Regulation Implementing the Community Reinvestment Act

*To All State Member Banks and Bank Holding Companies
in the Second Federal Reserve District:*

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 have announced the adoption of final regulations implementing the Community Reinvestment Act of 1977, effective November 6, 1978.

Enclosed is a copy of the text of the new regulation, together with several related documents, including, among other materials, a copy of (a) the Board's press release announcing the adoption of the regulation, (b) Federal Register notices regarding the adoption of the final regulation and procedures relating to public notice of the filing of CRA-covered applications with the Federal Reserve, and (c) a Board interpretation of the new regulation regarding the applicability of the Community Reinvestment Act to certain special purpose banks. With regard to the Board's procedures for the filing of applications under the Community Reinvestment Act, the Board will consider written comments on these procedures for six months from the effective date of the new regulation; such comments may be sent to our Consumer Affairs Division.

Copies of the new Regulation BB pamphlets will be sent to you as soon as they become available. Questions regarding these matters may be directed to our Consumer Affairs Division (Tel. No. 212-791-5919).

PAUL A. VOLCKER,
President.

Board of Governors of the Federal Reserve System

Regulation BB

Effective November 6, 1978



FEDERAL RESERVE

press release

For immediate release

October 10, 1978

Federal regulators of banks and savings and loan associations today announced final regulations implementing the Community Reinvestment Act (CRA), to take effect November 6, 1978.

The Act requires the agencies to have in force regulations by that date and to 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.

Before issuing these final rules, the agencies considered more than 500 comment letters from the public. In response to numerous suggestions, the requirements were clarified and simplified.

The Federal Reserve Board, the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board will be assessing institutions' records of providing local credit services.

Key factors are listed in the regulations for examiners to use in assessing a lender's record. An institution's performance will be taken into account when it applies for branches, mergers, charters and insurance, and certain other approvals. Past performance may be grounds for denial of an application.

The regulation applies to all such applications pending on November 6, 1978, as well as to those filed on or after that date.

The agencies will also consider the views of State supervisory authorities when State-chartered institutions apply for Federal deposit insurance or other approvals.

RECEIVED

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ANSWERED

ATTENDED TO

The CRA regulation approved by the agencies includes the following principal provisions designed to assist lenders in complying with the Act, to inform the public and to help regulators discharge their responsibilities:

1. Delineation of community

Lenders subject to the Act are required to prepare, and review at least annually, a map delineating the local community or communities comprising the lender's entire community, without excluding low- and moderate-income neighborhoods. A local community consists of the contiguous areas around each office or group of offices of the institution, but need not take account of off-premises electronic facilities that receive deposits for more than one lender. The regulation specifies three bases for delineation of a community:

- Boundaries such as those of a Standard Metropolitan Statistical Area (SMSA), or counties, where an institution's office or offices are located. Where appropriate, adjacent areas may be included, and adjustments may be made for boundaries such as State lines. Small institutions may delineate those areas of an SMSA or county it may reasonably be expected to serve.
- A lender may use its effective lending territory as delineating its local community, defined as areas where it makes a substantial portion of its loans, and other equidistant areas around each of its offices.
- A lender may use any other reasonably delineated area that meets the purposes of the Act and does not exclude low- and moderate-income areas.

2. Community Reinvestment Act Statement

Within 90 days after November 6, 1978, the board of directors of each institution subject to the Act shall adopt a Community Reinvestment

Act Statement (CRA Statement) for each delineated local community including the following main features:

1. The delineation of the local community;
2. A list of the principal types of credit the lender is prepared to extend in the local community;
3. A copy of the Community Reinvestment Act Notice cited below.

Lenders are encouraged to include also in their CRA Statement a statement of how they are helping to meet community credit needs, a periodic report on their record of helping to meet community credit needs and how they attempt to ascertain the credit needs of its local community.

The lender's board of directors shall review and update the lender's CRA statement at least annually.

3. Community Reinvestment Act Notice

Within 90 days after November 6, 1978, each lender shall provide in the lobby of each of its premises the following public notice:

"The Federal Community Reinvestment Act (CRA) requires the regulator to evaluate our performance in helping to meet the credit needs of this community, and to take this evaluation into account when the regulator decides on certain applications submitted by us. Your involvement is encouraged.

"You should know that:

". You may obtain our current CRA Statement for this community in this office. (Current CRA Statements for other communities served by us are available at our head office, located at (address).)

". You may send signed written comments about our CRA Statement(s) or our performance in helping to meet community credit needs to (title and address of State member bank official) and to Community Reinvestment Officer (appropriate Reserve Bank) (address). Your letter, together with any responses by us may be made public.

" . You may look at a file of all signed, written comments received by us within the past two years, any responses we have made to the comments, and all CRA Statements in effect during the past two years at our office located at (address). (You also may look at the file about this community at (name and address of designated office).)

" . You may ask to look at any comments received by the (appropriate Federal Reserve Bank).

" . You also may request from (the appropriate Federal Reserve Bank) an announcement of applications covered by the CRA filed with the Federal Reserve.

" . We are a subsidiary of (name of bank holding company), a bank holding company. Applications filed by bank holding companies that are covered by the CRA are included in (the Federal Reserve's) announcement of applications referred to in a previous paragraph."

(Certain of the above statements, which are within parentheses, apply only to lenders that serve more than one local community.)

Consumers should note that they may request to be placed on a roster to receive announcements of CRA-covered applications that have been filed with the supervisory agency.

4. Files of Public Comments

Each lender shall maintain files, readily available upon request for inspection by any member of the public, all signed written comments received from the public within the past two years referring specifically to any CRA Statement or to the lender's performance in helping to meet the credit needs of its community or communities. The lender may include its responses in this file. Any comments reflecting adversely upon the good name or reputation of any persons (natural or legal) or violating specific provisions of a law, shall be deleted. Also files respecting all offices of a lender shall be maintained at its head office. Materials relating to a local community shall be maintained at an office in that community.

All letters in these files are open to public inspection.

The following documents are attached:

1. Federal Register notice of adoption of the final regulation to implement the Community Reinvestment Act of 1977;
2. Federal Register notice of proposed procedures relating to public notice of the filing of CRA-covered applications with the Federal Reserve;
3. Letter to the Federal Reserve Banks regarding delegation of authority for applications;
4. Interpretation to the CRA Regulation that the Regulation does not apply to certain domestic banks that do not provide commercial or retail credit services; and
5. Letter to the Presidents of the Federal Reserve Banks concerning the CRA and Reserve Bank responsibilities.

DEPARTMENT OF THE TREASURY
Comptroller of the Currency

[12 C.F.R. Part 25]

FEDERAL RESERVE SYSTEM

[12 C.F.R. Part 228]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 C.F.R. Part 345]

FEDERAL HOME LOAN BANK BOARD

[12 C.F.R. Part 563e]

Community Reinvestment Act Regulations

October 6, 1978

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: Final regulations.

SUMMARY: These regulations implement the Community Reinvestment Act of 1977, and are intended to encourage regulated financial institutions 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. The regulations provide that the Agencies will assess institutions' records in doing so, and take those records into account when evaluating certain applications by those institutions.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT: Jerauld Kluckman, Board of Governors of the Federal Reserve System: 202-452-3401; Alan Herlands, Comptroller of the Currency: 202-447-1177; Roger Hood, Federal Deposit Insurance Corporation: 202-389-4628; Nancy Feldman, Federal Home Loan Bank Board: 202-377-6443.

SUPPLEMENTARY INFORMATION: On Page 29918 of the FEDERAL REGISTER of July 11, 1978, 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") proposed regulations to implement the Community Reinvestment Act of 1977 ("the CRA"). It is the purpose of the CRA, which was enacted as Title VIII of the Housing and Community Development Act of 1977 (Public Law 95-128), to require that, in connection with their examination of institutions under their jurisdiction, the Agencies encourage each institution to help meet the credit needs of its local community. The CRA further requires the Agencies to 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, and to 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 have received numerous comments regarding the proposed regulations and have revised the regulations after considering the concerns of the commenters.

The Agencies' final regulations, which are presented together for convenience, are identical in their substantive provisions, but contain technical and procedural variations. An explanation of the comments regarding each provision of the regulation, and of changes in those provisions, is set forth below.

PURPOSE

Commenters suggested that the proposed language, that a purpose of the regulation is to "require institutions to demonstrate that their offices serve the convenience and needs of their communities," was not within the scope of the CRA. While this language is contained in the findings of the CRA, this section has been revised to reflect more closely the operating language of the statute.

DELINEATION OF COMMUNITY

Most of the comments received on the Delineation of Entire Community section indicated that the proposed section did not make the responsibilities of institutions clear. In particular, there was confusion about the relationship between an institution's "entire" community and its "local" community or communities. Both terms are used in the statute. The section has been revised to clarify the delineation process. Each institution's entire community will consist of one or more local communities, and guidelines are given on how to define the local community or communities. As suggested by commenters, the revised regulation requires, instead of encourages, the use of maps to delineate local communities to ensure a clear and understandable delineation.

The regulation contains two suggested bases for delineating local communities: One takes boundaries from existing areas such as counties, and the other defines an area known as the effective lending territory. Both types of area are subject to certain adjustments.

In general, a local community based on existing boundaries should be no larger than an SMSA or non-SMSA county, which are areas that the Agencies have used to approximate relevant markets for the purpose of evaluating the competitive effects of mergers and holding company acquisitions. If an institution has offices in more than one such area, it will have more than one local community. When an institution has an office near the boundary of an SMSA or county, it should include those portions of adjacent counties that it serves. In rural areas, a local community may encompass more than one county, but, generally, institutions should not use States or regions of States to delineate local communities. A small institution that serves an area smaller than an SMSA or county may define its community to be a part of the SMSA or county.

A local community based on the effective lending territory of an institution with one office will be a roughly circular area around that office which includes the area in which the institution makes a substantial portion of its loans. Where an institution has several offices serving the same local area, the local community should be drawn to include the areas where each office makes a substantial portion of its loans and all other areas equally close to any of the offices. Use of existing boundaries is still encouraged where practicable.

Communities defined on either basis can be adjusted for other factors such as significant geographic barriers. In addition, subsection (b)(3) permits the use of any other local area to serve as a basis for delineating a local community.

Several comments suggested that low- and moderate-income neighborhoods should be defined. The Agencies are undertaking a program, using the Department of Housing and Urban Development definition of low- and moderate-income, to assist their examiners in identifying areas that may be low- and moderate-income neighborhoods. Further guidance will be contained in the Agencies' examination procedures which will be publicly available on or about November 6, 1978. Institutions are expected to be generally aware of low- and moderate-income neighborhoods within their community, without undertaking extensive research.

The Agencies received a variety of comments regarding the inclusion of off-premises electronic depository facilities in the term "office." In general, the Agencies believe that unshared facilities should be included for purposes of delineating an institution's community. However, the revised regulation provides that an electronic deposit facility, the use of which is shared with another financial institution, need not be taken into account in delineating local communities unless the Agency determines otherwise.

COMMUNITY REINVESTMENT ACT STATEMENT

Many commenters found the requirements of the proposed Community Reinvestment Act Statement ("CRA Statement") section unclear. To clarify what is required of institutions, that section has been divided into three: one provides for the adoption and availability of CRA Statements; another sets forth requirements for public files; and a third requires a public notice of the availability of the CRA Statement and Files.

Revised subsection (a) of the CRA Statement section now requires that a CRA Statement be prepared for each local community which an institution serves. The same CRA Statement is to be used for every office within one local community.

Several commenters felt that the list which now appears in subsection (b) (2) of the statement section indicated an Agency preference for types of credit which were not covered by the purposes of the CRA. This list is intended by the Agencies only as an example of the degree of specificity that an institution should use to describe the types of credit which it is prepared to extend within its local community.

Subsection (c) describes the additional material the Agencies encourage each institution to include as part of its CRA Statement. A new provision encouraging each institution to describe its efforts to ascertain community credit needs, including communication with community members, has been added. New subsections (e) and (f) clarify the manner in which an institution must make its CRA Statements available to the public.

FILES OF PUBLIC COMMENTS AND RECENT CRA STATEMENTS

This new section clarifies requirements formerly contained in section (f) of the CRA Statement section in the proposed regulation. Some commenters recommended that the comment file not be made public, but the Agencies believe that it may contribute to more effective community comment. In response to other comments received by the Agencies with regard to the the file requirement, the new section now provides that only signed, written comments that specifically relate to any CRA Statement or to an institution's performance in helping to meet the credit needs of its community must be retained. Materials should not be included that are harmful to any person's good name or reputation (including employees of the financial institution or its supervisory agency), or relate only to the particulars of any person's credit application. This provision does not permit the institution to exclude materials from the file merely because they are critical of the institution's CRA Statement or performance. An institution may include its own responses to public comments in the file. New subsection (c) indicates where the files must be maintained by the institution.

PUBLIC NOTICE

This new section combines in one place the materials required to be included in a public notice. To simplify preparation of the notice, this section now prescribes a standard public notice to be used by all institutions. An institution 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.

The final two paragraphs of the notice embody one outcome of the Agencies' decision to review their procedures for giving notice of applications to the public. They will inform members of the public that they may request to be informed of applications covered by the CRA made by the institution or its holding company.

A major purpose of the sections on the CRA Statement, Files and Notice is to promote a dialogue between the institutions and their communities regarding community credit needs. Obtaining community members' views would not, as some commenters suggested, alter management's role in arriving at credit decisions.

Many commenters thought that the requirements of these sections would place an undue burden on institutions, and in response to the Agencies' request for specific comments many commenters recommended that institutions with assets of less than \$10 million, or less than \$25 million, or institutions in rural areas, be exempted from the CRA Statement requirements. However, the Agencies concluded that these requirements are essential to effective implementation of the CRA and are not unduly burdensome.

ASSESSING THE RECORD OF PERFORMANCE

Several commenters felt that the assessment would only be made in connection with an application. This section states that the

Agencies will assess an institution's record of performance "in connection with its examination of" the institution. Although the examination may be divided into several parts, which may be conducted at different times and cover different areas of an institution's operations, the Agencies examine institutions on a regular schedule.

The proposed regulations indicated that the Agency would review an institution's "marketing and lending policies and practices to determine whether they are designed to help meet those needs and assess its record of performance." Commenters felt that this implied a recordkeeping requirement or a broad policy of interference with an institution's business decisions. Neither was intended, and the phrase has been deleted to avoid confusion. The assessment will focus on the factors enumerated in this section and will be based on the institution's existing records in addition to the CRA Statement and Files.

Some commenters believed that institutions attempting to comply with the CRA would be forced to make imprudent credit decisions. However, the Agencies will always conduct their assessments giving consideration to the safety and soundness of the institution.

Several comments suggested that the factors should be made more specific or given specific weights or developed into an explicit scoring system. The factors have been revised slightly to clarify them, but the Agencies believe that specific weights or scoring systems would not adequately address the diversity of institutions and communities

and would prevent rather than encourage thoughtful response to community needs. No weighting scheme is intended by the order in which factors are presented.

Factors (a) through (c) relate to an institution's record of communication with its community and its efforts to gear its policies to community needs. Subsection (a) combines (a) and (b) from the proposed regulation. The revision makes it clear that while communication about credit services is encouraged, the institution is responsible for the establishment of its policies. An institution may find it helpful to communicate with local government officials, housing and community development agencies, and representatives of business groups and community organizations. Subsection (b) (former (c)) includes not only advertising but communication with real estate brokers and activities such as mortgage counselling. Subsection (c) (former (e)) deals with board participation in its institution's consideration of the CRA. Commenters suggested that the regulation not specify the role of the board. The Agencies believe, however, that the CRA presents issues at a level of importance that warrant the board's attention.

Subsections (d) through (f) and, in part, (g) deal with evidence of practices which are or may be in conflict with the purpose of the CRA. Subsection (d) has been revised to read "practices intended to discourage applications" to make clear that the Agencies wish the list

of credit in the CRA Statement to be made in good faith. An institution will not be adversely assessed if general credit conditions make it temporarily impossible for the institution to offer listed credits.

Subsection (e) (former (f)) involves an assessment of an institution's lending patterns to see if the institution discriminates between geographic areas or excludes qualified borrowers from low- and moderate-income neighborhoods. It will be based on records required under Federal Reserve Board Regulations B and C and other existing data, and, in appropriate cases, Agency research. Proposed subsection (l), which addressed the issue of displacement, has been eliminated as commenters found it confusing. However, in connection with their assessments, the agencies will look favorably upon efforts by institutions to assist existing residents in neighborhoods undergoing a process of reinvestment and change.

Subsection (f) (former (j)) refers chiefly to violations of the Equal Credit Opportunity Act and the Fair Housing Act. Some commenters felt that "violations" could be determined only by a court. However, the Agencies believe evidence of violations found by examiners would be a material consideration in evaluating applications covered by the CRA. Subsection (g) (former (k)) refers in part to closing offices, and the failure to provide usual services--such as not accepting mortgage applications--at certain branches, where the effects are contrary to the purposes of the CRA.

Subsection (g), in part, and subsections (h) through (j) refer to efforts by an institution to meet the credit needs of its community. Subsection (g) refers in part to opening offices in low- and moderate-income neighborhoods and providing services, such as bilingual staff, in response to the needs of particular neighborhoods. Subsection (h) (former (g)) includes institution participation in the HUD Community Development Block Grant program and other efforts sponsored by Federal or State agencies, as well as development programs of local governments and private groups.

Subsection (i) (former (h)) lists the types of loans which the Agencies believe are most directly related to the purposes of the CRA. A record of providing these types of credit to all segments of its community consistent with safe and sound operation will be viewed favorably by the Agencies.

Several commenters were opposed to subsection (j) (former (i)). However, their comments were aimed chiefly at discriminatory policies of certain institutions in granting conventional versus Government insured mortgages. Several commenters were in favor of (j) and the Agencies believe that the programs can be used to meet the credit needs of many communities. Subsection (k) (former (m)) makes it clear that an institution's service to its community will be assessed with consideration given to its size and financial condition; legal restrictions on permissible activities, interest rates, and branches; and other factors which affect its ability to help meet community credit needs.

Several commenters suggested possible additional factors for agency consideration. Subsection (l) (former (n)) indicates that the list of factors is not exhaustive. The Agencies wish to encourage innovative responses to community needs and will be ready to consider favorably any efforts to meet community credit needs.

Several commenters suggested that State and municipal bond purchases should be included as a factor. Implementation of the CRA is not intended to discourage the purchase of these bonds, or secondary mortgage market securities, or to impair or disrupt capital flows from surplus to deficit regions, or to impose any other general priority in the use of an institution's available funds. Therefore, the Agencies will not give special consideration to the purchase of State and municipal bonds unless 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.

EFFECT ON APPLICATIONS

This section is somewhat different from Agency to Agency to allow for procedural variations. However, each of the Agencies has added a statement that an institution's record of performance may be the basis for denying an application. When that record has been considered

to be a material factor in evaluating an application, the Agencies will discuss the institution's record of performance in its statement announcing its decision.

Several commenters felt that the Agencies should make their examination of institutions' records public on a regular basis. However, the Agencies believe that this would impair the objective appraisal of an institution's performance required in the examination process.

RELATED REGULATIONS

Elsewhere in this issue of the Federal Register each Agency is publishing separately revised regulations regarding notice of applications to the public and other procedural matters. These are in addition to the provisions of the final paragraph of the required Public Notice.

The Federal Reserve Board, Comptroller of the Currency and the Federal Deposit Insurance Corporation have also published in this issue of the Federal Register an interpretation of the regulation which exempts institutions which conduct only correspondent banking, trust company, or clearing agency business. Further, the FDIC has published an interpretation which clarifies the regulation with respect to insured branches of foreign banks.

The Agencies find that publication of the amendments for the full 30-day period specified in 5 U.S.C. § 553(d) would not be in the public interest because the regulations are required by statute to take effect on November 6, 1978.

Accordingly, the Agencies hereby amend 12 C.F.R. parts 25,
228, 345, 563e to read as set forth below.

* * * * *

FEDERAL RESERVE SYSTEM

[12 C.F.R. Part 228]

[Docket No. R-0139]

[Regulation BB]

§ 228.1 Authority

The Board of Governors of the Federal Reserve System issues this Part to implement the Community Reinvestment Act (12 U.S.C. § 2901 et seq.). The regulations comprising this Part are issued under the authority of the Community Reinvestment Act and under the provisions of the United States Code authorizing the Board to conduct examinations of State-chartered banks that are members of the Federal Reserve System (12 U.S.C. § 325), to conduct examinations of bank holding companies and their subsidiaries (12 U.S.C. § 1844), and to consider applications for domestic branches by State member banks (12 U.S.C. § 321), for federal deposit insurance in connection with applications for membership in the Federal Reserve System by State banks (12 U.S.C. §§ 321, 1814, 1816), for merger in which the resulting bank would be a State member bank (12 U.S.C. § 1828), and for formation of, acquisitions of banks by, and mergers of, bank holding companies (12 U.S.C. § 1842).

§ 228.2 Purposes

The purposes of this regulation are to encourage State member banks to help meet the credit needs of their local community or communities; to provide guidance to State member banks as to how the Board

will assess the records of State member banks 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 the safe and sound operation of those banks; and to provide for taking into account those records in connection with certain applications.

§ 228.3 Delineation of Community

(a) Each State member bank shall prepare, and at least annually review, a delineation of the local community or communities that comprise its entire community, without excluding low- and moderate-income neighborhoods. Maps shall be used to portray community delineations. The reasonableness of the delineations will be reviewed by Federal Reserve System examiners.

(b) A local community consists of the contiguous areas surrounding each office or group of offices, including any low- and moderate-income neighborhoods in those areas. More than one office of a State member bank may be included in the same local community. Unless the Board determines otherwise, a community delineation need not take account of an off-premises electronic facility that receives deposits for more than one depository institution. In preparing its delineation, a bank may use any one of the three bases set forth below.

(1) Existing boundaries such as those of Standard Metropolitan Statistical Areas (SMSAs) or counties in which

the bank's office or offices are located may be used to delineate a local community. Where appropriate, portions of adjacent areas should be included. The bank may make adjustments in the case of areas divided by State borders or significant geographic barriers, or areas that are extremely large or of unusual configuration. In addition, a small bank may delineate those portions of SMSAs or counties it reasonably may be expected to serve.

(2) A bank may use its effective lending territory, which is defined as that local area or areas around each office or group of offices where it makes a substantial portion of its loans and all other areas equidistant from its offices as those areas. Adjustments such as those indicated in paragraph (b)(1) of this section may be made.

(3) A bank may use any other reasonably-delineated local area that meets the purposes of the Community Reinvestment Act (CRA) and does not exclude low- and moderate-income neighborhoods.

§ 228.4 Community Reinvestment Act Statement

(a) Within 90 days after the effective date of this Part, the board of directors of each State member bank shall adopt a Community Reinvestment Act (CRA) Statement for each delineated local community.

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

(1) the delineation of the local community;

(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, farm loans, community development loans, commercial loans, and consumer loans, that the bank is prepared to extend within the local community; and

(3) a copy of the COMMUNITY REINVESTMENT ACT NOTICE provided for in section 228.6.

(c) Each State member bank is encouraged to include the following in each CRA Statement:

(1) a description of how its current efforts, including special credit-related programs, help to meet community credit needs;

(2) a periodic report regarding its record of helping to meet community credit needs; and

(3) 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.

(d) Each State member bank's board of directors shall review each CRA Statement at least annually and shall act upon any material change made in the interim at its first regular meeting after the change. Such actions shall be noted in its minutes.

(e) Each current CRA Statement shall be readily available for public inspection:

- (1) at the head office of the bank; and
- (2) at each office of the bank in the local community delineated in the Statement, except off-premises electronic deposit facilities.

(f) Copies of each current CRA Statement shall be provided to the public upon request. A State member bank may charge a fee not to exceed the cost of reproduction.

§ 228.5 Files of Public Comments and Recent CRA Statements

(a) Each State member bank shall maintain files that are readily available for public inspection consisting of:

(1) Any signed, written comments received from the public within 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;

(2) any responses to the comments that the bank wishes to make; and

(3) any CRA Statements in effect during the past two years.

(b) These files shall not contain any comments or responses that reflect adversely upon the good name or reputation of any person other than the bank, or publication of which would violate specific provisions of law.

(c) These files shall be maintained by each State member bank as follows:

- (1) all materials at the head office; and
- (2) materials relating to each local community, at a designated office in that community.

§ 228.6 Public Notice

Within 90 days after the effective date of this Part, each State member bank shall provide, in the public lobby of each of its offices other than off-premises electronic deposit facilities, the public notice set forth below. Bracketed material shall be used only by banks having more than one local community. The last item in this notice shall be included only if the bank is a subsidiary of a holding company that is not prevented by statute from acquiring additional banks.

"COMMUNITY REINVESTMENT ACT NOTICE

"The Federal Community Reinvestment Act (CRA) requires the Federal Reserve Board to evaluate our performance in helping to meet the credit needs of this community, and to take this evaluation into account when the Board decides on certain applications submitted by us. Your involvement is encouraged.

"You should know that:

"• You may obtain our current CRA Statement for this community in this office. [Current CRA Statements for other communities served by us are available at our head office, located at (address).]

"• You may send signed, written comments about our CRA Statement[s] or our performance in helping to meet community credit needs to (title and address of State member bank official) and to Community Reinvestment Officer, Federal Reserve Bank of _____ (address). Your letter, together with any response by us, may be made public.

"• You may look at a file of all signed, written comments received by us within the past two years, any responses we have made to the comments, and all CRA Statements in effect during the past two years at our office located at (address). [You also may look at the file about this community at (name and address of designated office).]

"• You may ask to look at any comments received by the Federal Reserve Bank of _____.

"• You also may request from the Federal Reserve Bank of _____ an announcement of applications covered by the CRA filed with the Federal Reserve System.

"• We are a subsidiary of (name of holding company), a bank holding company. Applications filed by bank holding companies that are covered by the CRA are included in the Federal Reserve announcement of applications referred to in the previous paragraph."

§ 228.7 Assessing the Record of Performance

In connection with its examination of a State member bank, the Board shall assess the record of performance of the bank 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 bank. The Board will review the bank's CRA Statement(s) and any signed, written comments retained by the State member bank or the Federal Reserve Bank. In addition, the Board will consider the following factors in assessing a bank's record of performance:

(a) activities conducted by the State member 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;

(b) the extent of the State member bank's marketing and special credit-related programs to make members of the community aware of the credit services offered by the bank;

(c) the extent of participation by the State member bank's board of directors in formulating the bank's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act;

(d) any practices intended to discourage applications for types of credit set forth in the State member bank's CRA Statement(s);

(e) the geographic distribution of the State member bank's credit extensions, credit applications, and credit denials;

(f) evidence of prohibited discriminatory or other illegal credit practices;

(g) the State member bank's record of opening and closing offices and providing services at offices;

(h) the State member bank's participation, including investments, in local community development and redevelopment projects or programs;

(i) the State member 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;

(j) the State member bank's participation in governmentally-insured, guaranteed, or subsidized loan programs for housing, small businesses or small farms;

(k) the State member bank's ability to meet various community credit needs based on its financial condition and size, and legal impediments, local economic conditions and other factors; and

(l) other factors that, in the Board's judgment, reasonably bear upon the extent to which a State member bank is helping to meet the credit needs of its entire community.

§ 228.8 Effect on Applications

(a) In considering any application

(1) for membership in the Federal Reserve System where membership would confer federal deposit insurance on a bank,

(2) by a State member bank for the establishment of a domestic branch or other facility that would be authorized to receive deposits,

(3) by a State member bank for the relocation of a domestic branch,

(4) for merger, consolidation, acquisition of assets or assumption of liabilities if the acquiring, assuming, or resulting bank is to be a State member bank,

(5) to become a bank holding company, and

(6) by a bank holding company to acquire ownership or control of shares or assets of a bank, or to merge or consolidate with any other bank holding company,

the Board will take into account, among other factors it considers, the record of performance in meeting the credit needs of its entire community of each applicant bank, each subsidiary bank of an applicant bank holding company, and each proposed subsidiary bank of an applicant under section 3 of the Bank Holding Company Act (12 U.S.C. § 1842) that has an officer, director, employee, or significant stockholder associated with the applicant. Those records of performance may be the basis for denying the application.

(b) In the case of each application for membership that would confer federal deposit insurance, each application by a State member bank, and each application by a bank holding company with a State bank subsidiary, the Board will consider any views expressed by the respective State bank supervisors as to whether the State-chartered banks involved have been helping to meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of those banks.

(c) At the request of an applicant, the Board will include in its consideration of an application the record of performance of nonbanking subsidiaries of bank holding companies in helping to meet the credit needs of the communities served by affiliated applicant banks or by subsidiary and proposed subsidiary banks of applicants under section 3 of the Bank Holding Company Act (12 U.S.C. § 1842).

(d) At the time an application for membership that would confer federal deposit insurance is made, the proposed State member bank shall submit to the Board a proposed CRA Statement conforming to the requirements of section 228.4.

* * * * *

Board of Governors of the Federal Reserve System,
effective November 6, 1978.

(Signed) Griffith L. Garwood

Griffith L. Garwood
Deputy Secretary of the Board

TITLE 12 - BANKS AND BANKING

CHAPTER II - FEDERAL RESERVE SYSTEM

SUBCHAPTER A - BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Docket No. R-0182]

PART 262 - RULES OF PROCEDURE

Notice of Applications

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule.

SUMMARY: This rule would revise procedures of the Board for certain applications for membership, applications for branches, mergers, or relocations and certain applications under the Bank Holding Company Act. The goal of these changes is to improve the opportunity for public participation in the decision process on the affected applications listed above.

EFFECTIVE DATE: November 6, 1978.

FOR FURTHER INFORMATION CONTACT: Julius L. Loeser, Senior Attorney, 202-452-3236, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

SUPPLEMENTARY INFORMATION:

Section 262.3 is amended by adding the following subsection (b) and redesignating subsections (b), (c), (d), (e), (f), (g), and (h) as subsections (c), (d), (e), (f), (g), (h), and (i) respectively.

(b) Notice of applications. (1) In the case of applications (1) for membership in the Federal Reserve System where such membership would confer federal deposit insurance on a bank,

(ii) by a State member bank for the establishment of a domestic branch or other facility that would be authorized to receive deposits,

(iii) by a State member bank for the relocation of a domestic branch office,

(iv) for merger, consolidation, or acquisition of assets or assumption of liabilities, if the acquiring, assuming, or resulting bank is to be a State member bank,

(v) to become a bank holding company, and

(vi) by a bank holding company to acquire ownership or control of shares or assets of a bank, or to merge or consolidate with any other bank holding company,

the applicant shall, prior to filing such application, cause to be published on the same day of each of two consecutive weeks a notice containing the name of the applicant or applicants, the subject matter of the application, the location at which the applicant proposes to engage in business, and an invitation to the public to give written comment upon the application to the appropriate Federal Reserve Bank no later than thirty days after the date of publication of the first notice. Such notice shall be published in a newspaper of general circulation in (A) the community in which the head office of the bank is or is to be located in the case of an application for membership that would confer deposit insurance, (B) the community or communities in which the head office of the bank and the proposed branch or other facility (other than an electronic funds transfer facility) are located in the case of an application for the establishment of a domestic branch or other facility that would be authorized to receive deposits, (C) the community or communities in which the head office of the bank, the office to be closed, and the office to be opened are located in the case of an application for the relocation of a domestic branch office, (D) the community or communities in which the head office of each of the banks to be party to the merger, consolidation, or acquisition of assets or assumption of liabilities are located in the case of an application by a bank for merger, consolidation, or acquisition of assets or assumption of liabilities, or (E) the community or communities in which the head offices of the largest subsidiary bank, if any, of an applicant and of each bank, shares of which are to be directly or indirectly acquired, are located in the case of applications under section 3 of the Bank Holding Company Act.

(2) In addition to the foregoing notice, an applicant, in the case of an application to relocate a domestic branch office or other facility that would be authorized to receive deposits, shall post in a conspicuous public place in the lobby of the office to be closed a notice containing the information specified in Section 262.3(b)(1). Such notice should be posted on the date of the first notice required by Section 262.3(b)(1).

The Board will accept and consider written comments for six months from the effective date of this amendment. Such comments should be submitted to Theodore E. Allison, Secretary of the Board of Governors of the Federal Reserve System, Washington, D.C. 20551 and should refer to Docket No. R-0182.

Board of Governors of the Federal Reserve System, effective November 6, 1978.

Theodore E. Allison
Secretary of the Board



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

WASHINGTON, D. C. 20551

S-2387

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

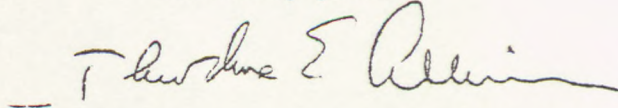
October 5, 1978

Under the Board's Rules Regarding Delegation of Authority, each Reserve Bank is authorized as to member banks and bank holding companies in its district to approve certain applications. In the case of State member banks, such applications include those for the establishment by member banks of domestic branch offices, including offsite electronic facilities, as well as certain applications under the Bank Merger Act. In the case of bank holding companies, the delegation of authority includes approval of certain applications under section 3 of the Bank Holding Company Act. In all such cases, an important factor specified in the Rules Regarding Delegation of Authority and in pertinent underlying statutes and regulations is "the convenience and needs of the community".

Congress recently enacted the Community Reinvestment Act of 1977. The Board and the Reserve Banks have consistently included the need for credit services within the scope of "convenience and needs" and the Community Reinvestment Act includes a formal Congressional finding that the convenience and needs of the community include the need for credit services. The Act requires each banking agency in connection with its examination of a bank within its jurisdiction to assess the bank's record of meeting the credit needs of the bank's entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of such bank. The Act further requires the agencies to take such records into account in their evaluations of certain applications. The delegated applications previously mentioned are all covered by the Community Reinvestment Act and, accordingly, the Reserve Banks in exercising their delegated authority to approve such applications should take the records of the appropriate institutions into account in considering the convenience and needs of the community. In any case in which it appears that a bank has a poor record of meeting the credit needs of its entire community,

including low- and moderate-income neighborhoods consistent with the safe and sound operation of such bank, the Board expects that a Reserve Bank would not be able to conclude that "convenience and needs" considerations are favorable and that, accordingly, under the present delegation regulation the Reserve Bank would decline to exercise its delegated authority. Rather than approve such an application, a Reserve Bank should refer the application to the Board for consideration and action. Similar referral should be made of any application protested on Community Reinvestment Act grounds.

Sincerely yours,



Theodore E. Allison
Secretary .1

TO THE PRESIDENTS OF ALL FEDERAL RESERVE BANKS, THE OFFICERS IN CHARGE OF BRANCHES, SENIOR OFFICERS IN CHARGE OF BANK EXAMINATIONS, AND OFFICERS IN CHARGE OF CONSUMER AFFAIRS SECTION

TITLE 12--BANKS AND BANKING

CHAPTER II--FEDERAL RESERVE SYSTEM

SUBCHAPTER A--BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. BB; Docket No. R-0181]

PART 228--COMMUNITY REINVESTMENT

SPECIAL PURPOSE BANKS

§ 228.100 Applicability of the Community Reinvestment Act to certain special purpose banks.

In response to its proposed Regulation BB to implement the Community Reinvestment Act ("CRA") (12 U.S.C. §§ 2901-05) the Board received several inquiries from institutions that, although they are chartered as banks, do not perform commercial or retail banking services. These institutions serve solely as correspondent banks, or as trust companies, or as clearing agents, and they do not extend credit to the public for their own account. The Board concludes that the CRA is not intended to cover these institutions.

It is the purpose of the CRA to require the Board to encourage banks to meet the credit needs of their local communities. To this end, the Board must assess banks' records of performance and take those records into account in acting on certain applications affecting the banks. The Board believes that these provisions were intended to cover all banks that are in the business of extending credit to the public

including both "wholesale" and "retail" banks. The lending activities of these banks affect the economic health of the communities in which they are chartered. However, the Board believes it would be pointless to encourage or to assess the credit-granting record of institutions that are not organized to grant credit to the public in the ordinary course of business, other than as an incident to their specialized operations.

Accordingly the term "State member bank" as used in the Board's Regulation BB (12 C.F.R. 228) does not include banks that engage solely in correspondent banking business, trust company business, or acting as a clearing agent.

By order of the Board of Governors, effective November 6, 1978.

Griffith L. Garwood
Deputy Secretary of the Board



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

October 6, 1978

On October 4, 1978, the Board approved a final regulation, effective November 6, 1978, as required by the Community Reinvestment Act of 1977 (CRA). Implementation of this regulation will impose additional responsibilities on both the Reserve Banks and the Board. The purpose of this letter is to describe several specific ways in which the regulation will affect your Bank and to ask for estimates of any resource increases that may be needed to carry out those responsibilities.

The CRA may impose additional resource requirements particularly in two areas. The first is the examination and education process relating to compliance by member banks. Examinations of State member banks to determine compliance with the regulation should place special emphasis on assessing a bank's efforts in helping to meet the credit needs of its local community, or communities, including any low- and moderate-income neighborhoods within the community. In this connection, member banks may require information for which a program, similar to the educational/advisory service of the consumer affairs program, may need to be developed. Also, additional examiner training, both at the Board and at the Reserve Banks, will be necessary. Second, the assessment of how well banks are helping to meet community credit needs will have to be taken into account in the applications process, both at the Reserve Banks and the Board.

In addition, the regulation requires that banks make a Public Notice available in their lobbies. In part, that Notice informs the public that interested persons may send comments regarding a State member bank's CRA Statement and performance under the CRA to the Federal Reserve Bank in the District in which the bank is located. The Notice also states that persons may ask to receive an announcement of CRA-covered applications filed with the Federal Reserve by writing to that District Bank's Community Reinvestment Officer.

The Board requests that you designate a member of your staff as Community Reinvestment Officer, and inform the Board of the name of the person designated. In addition to whatever other functions may be assigned, that individual should establish and maintain a file of all letters received from the public commenting on State member banks' CRA Statements or performances. This file will be available for public inspection on request, under the appropriate Freedom of Information Act procedures. To conform with the regulation, any statement in a letter that may reflect adversely on the good name or reputation of any person (including employees of the bank or the Federal Reserve System) should be deleted before the letter is made available to the public. This provision is, of course, not meant to eliminate references in letters that reflect adversely on a State member bank's CRA Statement or performance.

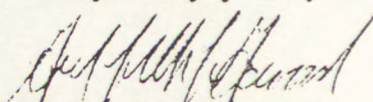
The Community Reinvestment Officer should also maintain a roster of the names and addresses of persons requesting announcements of CRA-covered applications. These announcements will be in the form of the Board's H.2 listing of applications received. This listing is now in the process of being revised to serve better the purposes of the CRA.

Reserve Banks will shortly receive a letter describing changes required by the regulation in notice procedures relating to certain applications. State member banks should be informed of these changes as soon thereafter as possible.

These, and other, efforts to implement the CRA may require additional resources. The Board, therefore, requests that you provide, by October 27, estimates of any increases in your Bank's budget that you believe may be needed. These estimates should be developed separately from your Bank's proposed budget for 1979. Estimates for incremental increases in various functions should be individually described by the PACS activity to which they would be charged. The estimated total cost to your Bank of administering this regulation should also be indicated. Please address this information to Clyde H. Farnsworth, Jr., Associate Director, Division of Federal Reserve Bank Examinations and Budgets.

Your assistance in carrying out the System's new responsibilities under the CRA is much appreciated.

Very truly yours,


Griffith L. Garwood
Deputy Secretary

TO THE PRESIDENTS OF ALL FEDERAL RESERVE BANKS