

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. 8502]
[January 23, 1979]

COMMUNITY REINVESTMENT ACT

Questions and Answers

*To All Federally Insured Financial Institutions
in the Second Federal Reserve District:*

Following is the text of a statement issued on behalf of the Federal agencies that supervise federally insured financial institutions:

The four Federal supervisors of financial institutions responsible for enforcing the Community Reinvestment Act (CRA) today [January 15] issued staff answers to the most frequently received inquiries about the Act, the implementing regulations and related examination procedures.

The agencies stated that the questions and answers developed by agency staffs should not be taken as official interpretations. Their purpose is solely to be helpful to financial institutions and to the public by providing useful background information.

An accompanying statement signed by officials of the agencies provided financial institutions with policy guidance on the general manner in which they should address their responsibilities under CRA. The agency officials said:

"In carrying out their responsibilities under CRA, financial institutions should focus on the spirit of the legislation and try to avoid narrow, legalistic interpretations of the legislation or the regulations. The agencies believe that the financial institutions, relying on their own resources, are capable of complying with the requirements of the regulations."

The statement added that while the agencies want to provide helpful information and guidance—and will issue further questions and answers in the future—they wish to keep official interpretations of CRA regulations to a minimum.

The CRA became effective November 6, 1978. It is intended to encourage federally insured commercial banks, mutual savings banks and savings and loan institutions to help meet the credit needs of their entire communities, including low and moderate income neighborhoods, while preserving the flexibility needed by financial institutions to operate safely and soundly.

With respect to the staff questions and answers, the agencies said:

"Since the final regulations and examination procedures have been made public, a number of questions have been raised about them by financial institutions and individuals. In order to assist financial institutions in meeting their responsibilities under CRA and to increase public understanding . . . the staffs of the agencies have prepared the attached paper which presents the most common questions about the CRA regulation and examination procedures and the staffs' responses . . ."

The questions and answers provide staff guidance as to the meaning the agencies attach to key terms in the Act and their implementing regulations, such as "office," "local community" and "small" business or farm. They also address such subjects as the contents of the institutions' CRA statements that must be prepared to comply with CRA regulations, the availability of public comment files, and how institutions should deal with the delineation of low and moderate income neighborhoods in their communities.

The statement of the officials of the four agencies and the accompanying staff questions and answers are printed on the following pages. Inquiries on this matter may be directed to our Consumer Affairs Division (Tel. No. 212-791-5919).

PAUL A. VOLCKER,
President.

Comptroller of the Currency
Federal Deposit Insurance Corporation
Federal Home Loan Bank Board
Federal Reserve Board

On October 12, 1977, the President signed into law the Community Reinvestment Act (CRA). Under the Act, the above-named Federal financial supervisory agencies were given responsibility for writing regulations to implement the CRA, the regulations to be effective on November 6, 1978. On October 12, 1978, the agencies published their final regulations in the *Federal Register*. The regulations of the agencies are substantively identical. The agencies also issued on November 22, 1978, the examination procedures that would be used in conducting examinations to assess the record of financial institutions in helping to meet the credit needs of their community, including low- and moderate-income neighborhoods.

Since the final regulations and examination procedures have been made public, a number of questions have been raised about them by financial institutions and individuals. In order to assist financial institutions in meeting their responsibilities under CRA and to increase public understanding of the regulations and the examination procedures, the staffs of the agencies have prepared the attached paper which presents the most common questions about the CRA regulation and examination procedures and the staffs' responses to those questions. The answers to the questions should not be regarded as official interpretations. Their purpose is solely to be helpful to financial institutions and the public by providing useful background information. Additional questions and their answers will be issued by the agencies in the near future.

The agencies view the CRA regulations as giving regulated financial institutions considerable leeway in determining the means by which they will help to meet the credit needs of their communities. In carrying out their responsibilities under CRA, financial institutions should focus on the spirit of the legislation and try to avoid narrow, legalistic interpretations of the legislation or the regulations. The agencies believe that the financial institutions, relying on their own resources, are capable of complying with the requirements of the regulations. While the agencies wish to provide helpful information and guidance to the financial institutions, they want to keep official interpretations of the regulations to a minimum.

Questions and Answers

1. What does the term "office" mean as used in the Regulation?

Answer: Office refers generally to a facility of an institution that accepts deposits, including an electronic deposit facility. It does not include purely administrative offices, agencies, loan production offices or facilities used, for example, only for the check collection process. In delineating a local community, however, an institution need not take into account shared electronic deposit facilities, unless otherwise directed by the appropriate Agency.

2. What is meant by "local community" and how detailed a map should be used to portray it?

Answer: The term "local community" used in the regulation refers to the contiguous area surrounding each office or group of offices of an institution. While it is recognized that the geographic areas served by an institution may vary with the type of service, only one local community is to be delineated for a particular office or group of offices. Any map which depicts an institution's local community or communities with reasonable clarity may be used. It need not, for example, be a detailed map showing each street in the community, nor need it be professionally prepared by a cartographer. Low- and moderate-income neighborhoods should not be specifically indicated on the map. The community delineation, however, must not unreasonably exclude such neighborhoods. An institution having several local communities may delineate all of

them on one map. It is important, however, that each local community comprising the entire community be delineated with sufficient clarity so that it can be readily determined which areas are being included in those local communities. If the entire community is made up of more than a few local communities or the local communities are separated by significant distances, it may be easier and clearer to use a separate map for each local community. Furthermore, there is no requirement that the locations of the institution's offices be shown on the maps.

3. How should an institution deal with low- and moderate-income neighborhoods in its local community delineation?

Answer: The CRA regulation requires that low- and moderate-income neighborhoods not be unreasonably excluded from a delineation of the local community. As the preamble to the regulation states, "Institutions are expected to be generally aware of low- and moderate-income neighborhoods within their community, without undertaking extensive research." No attempt need be made to distinguish between low-income neighborhoods and moderate-income neighborhoods. If institutions desire further information about low- and moderate-income neighborhoods, they should consult such sources as: the guidance given examiners on page 12 of the Agencies' joint CRA Examination Procedures released on November 22, 1978; and State and local community development and planning agencies.

4. What should be included in a CRA Statement?

Answer: At a minimum, an institution's CRA Statement must include for each local community: a) a map delineating that local community; b) a list of the types of credit it is prepared to extend in that community; and c) a copy of the Community Reinvestment Act Notice provided for in the regulation.

Also, an institution's board of directors must, at least annually, review each CRA Statement, and act on any material changes in a Statement at the board's first regular meeting after the change.

In addition, each institution is encouraged, but not required in its Statement to: a) describe how its current efforts help meet community credit needs; b) report on its record of helping to meet community credit needs; and c) describe its efforts to ascertain community credit needs, including communication with community members on this subject.

5. How specific a list of the types of credit offered in a local community is needed for the CRA Statement?

Answer: Each type of credit the institution is prepared to extend in its local community should be listed. The regulation indicates that greater specificity is desired with respect to residential mortgage and housing rehabilitation loans and loans to small businesses and farms. In these general categories, sub-categories, such as "residential loans for 1-to-4 dwelling units," "residential loans for 5 dwelling units and over," should be used.

6. If an institution is prepared to offer particular types of credit only at some of its offices in a local community, should those types of credit be listed on the CRA Statements of all of its offices in that community?

Answer: Yes. Because the institution is willing to extend that type of credit to any credit-worthy borrower in the community, the institution should list the types of credit on the CRA Statement of each office even though a prospective borrower at one office may be referred to another when seeking to make application. The institution should bear in mind, however, that public complaints may arise because of such practices; and the Agencies will have to make a judgment as to whether the practice significantly discourages applications for such credit or otherwise adversely affects the institution's CRA performance.

7. What is a "small" business or farm?

Answer: For CRA purposes, the term "small" refers to the absolute size of the business and farm rather than the relative size in their industries. Because a major concern of CRA is that all credit-worthy borrowers have reasonable access to loans from banks and savings and loans, small businesses and farms generally are viewed as those which do not have access to regional and national credit markets. Put another way, small businesses and farms are those that must rely on their local lending institutions for credit.

8. How should past CRA Statements, current CRA Statements and public comment files be made available to the public in each office of an institution, particularly an institution that has offices in more than one local community?

Answer: An institution that has offices in more than one local community should maintain current CRA Statements for all its local communities at its head office and current CRA Statements for each local community in each office of the institution in that local community, except off-premises electronic deposit facilities.

Any CRA Statements that were in effect during the past two years should be retained with the public comment letters in the public comment file. A comment file for the entire institution must be maintained at the head office, and a comment file pertaining to a particular local community must be retained at a designated office in that community.

9. Are all signed, written CRA comment letters to be placed in the public comment file?

Answer: The regulations say that the institution must put all signed, written comments relating to the CRA Statement or to the institution's performance in helping meet community credit needs into a public file. The only exception to this is comments which reflect adversely on the reputation of any person, or which would violate a law. The institution must use its own judgment, both as to what letters relate to its performance in meeting community credit needs, and as to what comments might reflect adversely on a person's reputation. Signed, written comments which are excluded from the public file because they might harm a person's reputation should be retained in a non-public file for inspection by the examiner.

10. If a letter is addressed in part to an institution's overall CRA performance, but contains some information which is harmful to an individual or violates a law, should the institution withhold the entire letter from the public file?

Answer: The institution may do so. Alternatively the statement(s) which reflect adversely on an individual or violate a law may be deleted from a copy of the letter and the balance of the letter included in the public file. In any event, the entire original letter should be retained for inspection by the examiner.

11. Under what circumstances will comments about an institution's CRA Statement(s) or performance in helping to meet community credit needs and/or the institution's response(s) be made public?

Answer: Any signed, written comment received by a financial institution that is placed in the Public Comment File will be available for any interested person and the CRA examiner to inspect. Comments received by a supervisory Agency will be on file at the Agency. These comments are available to members of the public and the financial institutions unless exempted from disclosure under the Freedom of Information Act.

12. Is the institution obligated to respond to any or all comments received from the public?

Answer: There is no requirement that the institution respond. However, the financial institution may find it helpful to respond to certain comments in order to foster a dialogue with members of the community or to present relevant information to the regulatory Agency.

If an institution responds to a letter in the public file, the response must also be placed in the public file unless it reflects adversely on any person or violates a law.

13. Are there any requirements relating to the size and placement of the Community Reinvestment Act Notice?

Answer: The notice must be placed in the public lobby of the financial institution but there are no specific requirements relating to size and placement. The Agencies believe the rule of reason must apply depending on the form of the notice. For example, if the notice is provided in the form of a poster, the poster must be placed within the lobby where it will likely be seen by customers and be of sufficient size to be easily read from the distance at which it will normally be viewed. If the notice is provided in the form of a flyer, a supply of such flyers printed in easily-read type and placed where they will likely be noticed will suffice. The notice requirement may also be satisfied by making the CRA Statement, which includes the notice, available as a brochure in the lobby placed where it will be noticed.

14. What information and avenues of communication are available to members of a community who are concerned about the performance of financial institutions in their community?

Answer: Financial institutions are being encouraged to communicate with members of their community. The CRA regulation requires financial institutions to make available to the public their "CRA Statement." The Statement contains a map showing the boundaries of the local community delineated by the institution and lists the types of credit that the institution is prepared to extend to members of the community. The Statement also contains a copy of the "Public Notice" that all fi-

nancial institutions must have in their offices. The Public Notice states that members of the public may write to the financial institution or the appropriate regulatory authority concerning the institution's performance in helping to meet community credit needs. Members of the community may also review letters from the public received by a financial institution regarding such performance. Announcements of CRA-covered applications may be obtained by writing to an institution's supervisory Agency. Anyone may comment on the filing of an application covered by the CRA by writing to the appropriate supervisory Agency listed either in the applicants' newspaper notice or its CRA Notice. The Agencies have varying comment periods for applications. Therefore, any questions regarding the comment period should be directed to the regional office of the appropriate Agency. Comments received within the appropriate period will be considered by the Agency in the applications process.

15. Will an institution be required to document that it is actually extending the types of credit that it listed in its CRA Statement as being offered in the local community?

Answer: The CRA regulations do not require any documentation beyond the public comment files. Examiners will, however, review information required to be maintained under any applicable fair housing regulations, loan registers if required by the Agency, and the application files required to be kept under the Federal Reserve Equal Credit Opportunity regulation and housing loan statements prepared under the Home Mortgage Disclosure regulation. Examiners will also use other available materials (such as advertising copy) to determine if the institution is offering in good faith to extend the types of credit that it has listed on its CRA Statement.