

**FEDERAL RESERVE BANK
OF NEW YORK**

[Circular No. 8535]
March 13, 1979

COMMUNITY REINVESTMENT ACT

Additional Questions and Answers

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

Our Circular No. 8502, dated January 23, 1979, contained the text of a statement issued by the four Federal agencies that supervise federally insured financial institutions, together with 15 staff answers to the most frequently received inquiries about the Community Reinvestment Act and its implementing regulations and related examination procedures. These agencies are now issuing a second set of questions and answers regarding these matters. Following is the text of a statement issued on March 1 by the Board of Governors of the Federal Reserve System on its own behalf and on behalf of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Federal Home Loan Bank Board:

On January 8, 1979, the four Federal financial institutions regulatory agencies responsible for enforcing the Community Reinvestment Act issued a staff paper to answer frequently received inquiries about the Act, the implementing regulations, and the CRA examination procedures. In that paper, it was noted that additional questions and answers would be forthcoming. Today, the four agencies are issuing those questions and answers.

As stated in the January 8 paper, the answers to these commonly asked 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 . . . (F) financial institutions should focus on the spirit of the legislation and try to avoid narrow, legalistic interpretations of the legislation or the regulations."

The first set of questions and answers provided staff guidance on the subjects: community delineation, contents of CRA Statements, CRA public notices, and maintenance of files of public comments and recent CRA Statements. The second set provides staff guidance on the subjects: assessment of institutions' record of performance under the CRA, agency encouragement of institutions under CRA, available sanctions under CRA, and impact of CRA on holding companies and their affiliates.

On October 12, 1977, the President signed into law the Community Reinvestment Act (CRA). Under the Act, the above-named Federal financial supervisory agencies [*Federal Home Loan Bank Board, Federal Deposit Insurance Corporation, Comptroller of the Currency, and Federal Reserve Board*] 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 records of financial institutions in helping to meet the credit needs of their communities, including low- and moderate-income neighborhoods.

The second set of staff questions and answers on CRA 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.

Questions and Answers

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16. Will activities in addition to lending be considered in the CRA assessment?

Answer: Yes. While the principal focus is on loans, the Agencies recognize that other activities and efforts contribute toward the CRA's goals. The Agencies will consider the extent to which an institution's activities foster local community revitalization—for example, the purchase of States or municipal bonds or involvement through investment or other contributions in a local community development project. The Agencies also will consider activities such as efforts to establish a dialogue with community members concerning credit needs of the community, the institution's record of opening and closing branches and offering services (including non-credit services), marketing and special credit-related programs to make community members aware of credit services offered at its offices, and the extent of participation by the institution's board of directors in formulating policies and reviewing its performance with respect to the purposes of the CRA.

17. Will an institution's performance in helping to meet community credit needs be assessed even if an institution does not make an application covered by the CRA or is legally precluded from doing so?

Answer: Yes. While the Congress directed that the approval or rejection of applications be used to encourage community investment by banks and S&Ls on a safe and sound basis, it also sought to have each supervisory Agency use its examinations "to encourage" institutions to be sensitive to their responsibilities to help meet local credit needs. As envisioned by the Congress, this effort by the Agencies is to be on-going and not limited to the formal applications process.

18. How will the Agencies "encourage" institutions to help meet the credit needs of their local communities?

Answer: Encouragement will be provided in three ways. First, within the limits of the Agencies' resources, their staffs will be providing information and technical assistance and will be meeting with representatives of industry and the management of individual institutions to explain the CRA, regulations, and examination procedures. This information exchange will help institutions to understand the purposes of the CRA and how the Agencies plan to implement the Act.

Second, as part of each CRA examination, Agency examiners and field staff will discuss with management their findings regarding the institution's CRA performance. Where appropriate, the Agency staff may suggest ways in which the institution can improve its performance.

Third, in decisions on applications, where CRA is a material factor, the Agencies will publicly comment on an institution's record of performance.

19. Will an institution be given a poor CRA assessment for making loans outside its local community?

Answer: The Agencies' assessment of an institution's performance will focus on the record of the institution in helping to meet credit needs within its community. The Act, implementing regulations, and examination procedures set no numerical criteria for the amount of loans that an institution should make within its local

community or communities. If an institution is effectively helping to meet local credit needs, activities conducted outside its local community will not affect the institution's CRA performance record.

20. May an institution use a policy of making certain loans only to existing customers, without adversely affecting its CRA assessment?

Answer: In examining an institution, the Agencies will pay special attention to any restrictions placed on the availability of those types of credit that an institution has indicated on its CRA Statement that it would extend in its local community. Examiners will focus on whether any such restriction has or would have a significantly greater impact on low- and moderate-income neighborhoods and/or classes of borrowers protected under the Fair Housing and Equal Credit Opportunity Acts than it does on the remainder of the community. In every case, examiners will consider the business rationale for adopting a particular policy, and whether other policies would serve the same business purpose with less adverse impact. Examiners will conduct this review taking the specific restriction and the facts and circumstances regarding its effects into account. One aspect of this review will involve the relative ease or difficulty of becoming a customer eligible for credit under the restriction. In addition, examiners may consider whether the institution has adopted a policy of limiting certain loans to customers as a temporary response to tight money conditions or as a permanent policy. Loans available on any restrictive basis should be listed on the CRA Statement with the restriction(s) noted. However, the agencies recognize that institutions occasionally make certain specialized loans to good customers—loans which they do not offer on a regular basis. This type of spot lending activity need not be listed on the CRA Statement.

21. In assessing an institution's CRA performance, will an examiner seek information outside of the institution being examined?

Answer: The examiner will seek such information if he or she believes that it is necessary to complete a fair and accurate picture of the institution's performance. For example, if the examiner believes that the institution's description of its community is unreasonable, the examiner may review the delineations of other, similar institutions in the community. In addition, contacts may be made with persons who have commented on an institution's performance, local officials, local business owners, community residents, real estate brokers, and others.

22. What sanctions are available to the Agencies under the CRA?

Answer: A poor CRA performance record may result in denial of an application. The Agencies may also use the full range of their enforcement powers to ensure compliance with the requirements of the CRA regulations such as preparing a CRA Statement, maintaining public comment files, and providing the public notice. In addition, prohibited discriminatory or other illegal credit practices which are adverse factors under the CRA, will also result in sanctions under the Equal Credit Opportunity Act, Federal fair housing laws, or other consumer credit protection laws.

23. Are applications for electronic deposit facilities covered by the CRA?

Answer: Generally, such applications are covered. The Agencies have different rules regarding processing of applications for electronic deposit facilities and institutions should, therefore, consult their supervisory Agency before filing.

24. How are bank and savings and loan holding companies affected by the CRA?

Answer: The CRA applies to applications filed by holding companies to merge or to acquire commercial banks and savings and loan associations. When decisions on such applications are made, the Federal Reserve Board in the case of bank holding companies, and the Federal Home Loan Bank Board in the case of savings and loan holding companies, will take into account the CRA records of all of the bank or S&L affiliates of the applicant holding company. The parent holding company need not prepare a CRA Statement, maintain public comment files, or prepare a public notice. The

holding company must conform, however, to the requirements of the regulation for media notices of applications filed to acquire a bank or S&L.

25. How does the CRA affect applications by banks and S&Ls that are subsidiaries of holding companies?

Answer: Applications by a bank or S&L that is a subsidiary of a holding company will be treated by the Agencies in the same way as those filed by any bank or S&L. Only the CRA record of the applying bank or S&L will be taken into account. The bank or S&L may request, however, that the Agency consider the contribution of any of the bank's or S&L's nondepository affiliates in helping to meet the credit needs of the community or communities of the applicant bank or S&L. For example, if the applicant bank or S&L has an affiliate community development corporation operating in the same community as the applicant, the applicant may ask that the contributions of that corporation in helping to meet the credit needs of the particular community be considered by the Agency in assessing the overall CRA record of the applicant.