

FEDERAL RESERVE BANK
OF NEW YORK

Circular No. 8734
January 10, 1980

Guidelines Under the Community Reinvestment Act

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

The Board of Governors of the Federal Reserve System has issued an informational statement for the guidance of applicants, community groups, and other persons interested in the Community Reinvestment Act of 1977. Following is the text of the Board's notice announcing the issuance of the statement:

The Community Reinvestment Act (CRA) requires the Board and other federal supervisors of financial institutions to encourage banks and other lenders to meet the credit needs of the local communities where they are chartered, within the bounds of safe and sound banking. The federal regulators are required by the Act to assess the records of institutions they supervise in meeting the credit needs of their communities and to take their records into account when they are acting on applications from lenders to expand their activities.

The CRA is aimed particularly at encouraging financial institutions to give special attention to the needs of low and moderate income areas in meeting the credit needs of the communities in which they operate. In October 1978 the Federal Reserve, together with other federal supervisors of financial institutions, issued regulations to implement the CRA.

The Board's statement is directed to State chartered commercial banks that are members of the Federal Reserve System, and to bank holding companies. The Board's statement has been forwarded to the Federal Financial Institutions Examination Council for its consideration.

In issuing its statement the Board said that it is working to simplify its procedures for handling applications that are protested by community groups, or others, on CRA grounds. The Board said that it

...expects to develop a procedural guide for members of the public participating in CRA matters. The procedures are, of necessity, subject to change as more experience is acquired, and all procedures will be coordinated as far as possible with those adopted by other federal agencies charged with supervision of financial institutions.

Meanwhile, the Board said, it has adopted a policy of encouraging meetings between applicants and protesting parties to help solve problems by facilitating communication, in connection with the Board's view that communication with community members is an important part of a bank's efforts to ascertain the community's credit needs.

The Board noted that it has received protests suggesting that a lending institution has a poor lending record because it is not returning as much in the form of loans to community members as it receives in deposits from that community. In this connection, the Board stated:

Although CRA is directed at the problem of meeting sound community credit needs, it was not intended to establish a regulatory influence on the allocation of credit. In implementing the Act the Board has acted on the belief that banks are in the best position to assess the credit needs of their own local communities and the Board believes that meetings with community groups can be an integral part of the process....

(Over)

The Board believes that there are many reasons why a particular neighborhood may generate more deposits than loan requests, or more requests than deposits, and that disparity in a particular local area between credit granted and deposit totals is not *prima facie* evidence of discrimination....

However, the Board views as a serious matter disparities in lending to different areas that do not appear to be fully attributable to safety and soundness considerations or to factors beyond a bank's control.

The Board's statement included these other principal points:

—When faced with evidence of such disparities the Board will inquire closely into the bank's efforts to ascertain credit needs and to make the community aware of its credit services and into any policies or practices that may discourage credit applications from, or discriminate against, parts of the bank's community.

—The Board expects banks to offer throughout their communities the types of loans they say in their CRA statement that they offer.

—The Board will give weight to concerted efforts by lenders to improve low and moderate income areas of communities.

—In some cases the Board may give weight to commitments for future action, as it has long done in considering what effect the approval or disapproval of an application would have on the banking convenience and needs of a community.

—Where this is done, the Board, in considering future applications, will review a bank's record closely to determine if the bank is meeting its commitments.

—Just as the Board expects that a bank will communicate responsibly with all segments of its community it also expects that community organizations filing protests will investigate complaints and document them.

—With respect to the Federal Reserve's policy of trying to improve communication between lending institutions and their communities by bringing them together to consider protests:

- Even if a protest is withdrawn, the Board has an obligation to consider the applicant's CRA record.
- Any decision to negotiate is up to the parties involved.
- The Board will not necessarily approve an agreement between the parties.
- The Board does not endorse agreements to allocate credit.

The Board said it welcomes suggestions for the improvement of its processes for handling CRA protests and other matters.

Enclosed is a copy of the complete text of the information statement issued by the Board of Governors. Questions regarding the statement, and suggestions for improving the Board's procedures for handling CRA protests and other related matters, may be directed to our Consumer Affairs and Bank Regulations Department (Tel. No. 212-791-5919).

Additional copies of the enclosure will be furnished upon request.

THOMAS M. TIMLEN,
First Vice President.

FEDERAL RESERVE SYSTEM
Community Reinvestment Act
Information Statement

The Board of Governors of the Federal Reserve System is issuing this statement for the guidance of applicants, community groups, and other persons interested in the Community Reinvestment Act of 1977 ("CRA" or "the Act"). On the basis of its experience during the first year of operation under CRA, the Board is working to simplify its procedures for protested applications, and it expects to develop a procedural guide for members of the public participating in CRA matters. The procedures are, of necessity, subject to change as more experience is acquired, and all procedures will be coordinated as far as possible with those adopted by the other federal agencies charged with supervision of financial institutions.

CRA was enacted against a background of concern for unfair treatment of prospective borrowers and unwarranted geographic differences in the pattern of lending. The Act requires the Board to encourage banks to meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of those banks, to assess the banks' records of meeting those credit needs, and to take their records into account in the Board's evaluation of various applications to expand the banks' activities or those of their parent holding companies.

Although CRA is directed at the problem of meeting sound community credit needs, it was not intended to establish a regulatory influence on the allocation of credit. In implementing the Act, the Board has acted on the belief that banks are in the best position to assess the credit needs of their own local communities and the Board believes that meetings with community groups can be an integral part of the process. The first assessment factor in the Board's CRA regulation stresses a bank's activities to ascertain the credit needs of its community, including communication with community members. More recently the Board has adopted, as a regular procedure for applications that are protested on substantive CRA grounds, a policy of encouraging meetings between applicants and protestants, one purpose of which is to facilitate communication between the parties.

Several community organizations have submitted materials to the Board suggesting that particular lending institutions have poor lending records because they do not return to particular neighborhoods in loans as much as they accept from those neighborhoods in deposits. The Board believes that there are many reasons why a particular neighborhood may generate more deposits

than loan requests, or more requests than deposits, and that disparity in a particular local area between credit granted and deposit totals is not *prima facie* evidence of discrimination. The Board is more concerned with the lenders' sensitivity to the needs of each area.

Banks may sometimes fail to recognize the credit needs of creditworthy borrowers in the banks' communities. For example, in its investigations to date, the Board has found some evidence of disparity in banks' housing-related lending to low- and moderate-income neighborhoods compared with higher income areas. Factors affecting housing demand, and considerations of safety and soundness do not appear to account fully for the extent of these disparities.

The Board expects banks to offer types of credit listed on their CRA statements throughout their communities. In assessing banks' records, the Board views favorably the record of a bank that has defined its community reasonably and that offers credit that appears to help meet credit needs in its entire community. The Board will also give favorable weight to bank leadership in concerted efforts to improve low- and moderate-income areas in their communities. However, the Board views as a serious matter disparities in lending to different areas that do not appear to be fully attributable to safety and soundness considerations or to factors beyond a bank's control. When faced with evidence of such disparities, the Board will inquire closely, both into the bank's efforts to ascertain credit needs and to make the community aware of its credit services, and into any policies or practices of the bank that may discourage credit applications from, or discriminate against, parts of the bank's community.

In acting upon applications covered by CRA, the Board considers a bank's CRA record as a part of the convenience and needs aspect to be evaluated along with other relevant factors. Following its longstanding policy, the Board may in some circumstances give weight to commitments for future actions as part of its consideration of convenience and needs. Such commitments are not viewed as part of the CRA record but may be weighed with it, and they are considered an important aspect of the Board's role in encouraging improved performance. When such commitments are offered by an applicant to outweigh adverse aspects in a CRA record, the Board will consider the likelihood that they will be accomplished, and in future applications and examinations will review closely an applicant's performance on previous CRA commitments.

The Board has been working to simplify and streamline its procedures for protested applications, and expects to produce a guide for community organizations that are interested in CRA matters. In the meantime System staff is available to advise parties on procedural requirements. Just as the Board expects banks to communicate responsibly with all segments of their community, it expects community organizations to investigate and document their complaints, and to bring those complaints to the attention of the banks involved before protesting an application. The Board further expects all parties to an application to observe the Board's procedural rules, and cautions all parties against *ex parte* communications, private communications to Board Members without other parties present. Direct communication on protested cases with Members of the Federal Reserve Board must be in writing and will be part of the record.

As a part of its revised procedure when a protest is considered substantive, the Board now asks that applicants and protestants meet together with Reserve Bank staff to attempt to clarify the issues between them. These meetings have been useful in helping the staff to plan the direction of its investigation and to identify areas or questions meriting special attention. In addition, where particular differences among the parties have arisen from misunderstanding of the facts or of another party's position, these meetings have helped resolve those differences.

Of five protested applications that the System has acted upon, three protests have been resolved by negotiation, and agreements reached in negotiations

played a role in the Board's decision on a fourth. There are, however, several aspects of this process that merit special attention. First, the withdrawal of a protest does not alter the Board's obligation to assess the CRA record of an applicant carefully. Second, while the Board reasonably expects all parties to use these meetings to explain and clarify their positions, any decision to negotiate is entirely within the parties' discretion. Finally, even if parties agree, the Board need not approve their agreement.

In particular, the Board does not endorse agreements to allocate credit. The Board is aware that many banks have on their own initiative adopted special purpose credit programs, or pilot programs to test new credit offerings. The Board does not wish to discourage these efforts. However, the Board will closely scrutinize any agreements to ascertain that they are not inconsistent with the safety and soundness of the bank involved, and do not establish a preference for credit extensions inconsistent with evenhanded treatment of borrowers throughout the community.

In designing procedures to accomplish the Act's objectives, the Board appreciates the useful comments it has received from banking organizations and community groups, and it welcomes additional suggestions. The Board believes that the applications process can encourage communication between banks and their communities and help insure that sound credit needs are met within the capacity of depository lending institutions.

Board of Governors of the Federal Reserve System,
January 3, 1980.