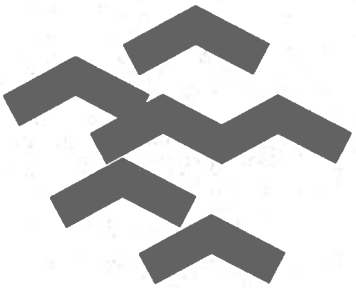
Making CRA work for you

A Guide for Community Organizations



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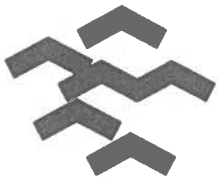
Introduction: Credit, Communities, & CRA



1

Credit is essential to developing and maintaining a healthy community. In all communities, rich and poor, investment and credit are necessary to keep businesses operating and allow them to expand, keep housing in good repair, and allow property to be bought and sold.

It's easiest to see the role of credit by looking at a disinvested community–that is, a community in which credit has stopped flowing. When credit is not available for everyday community investment needs, the local economy starts to fall apart at the seams. Buildings deteriorate when rehabilitation funds are unavailable; housing values decline if buyers can't find mortgages; modest-income people have an even more difficult time purchasing a home; businesses stagnate or relocate when they can't get loans to expand. Disinvestment can ultimately destroy the economic assets of a community.

When it is available, however, credit serves as a catalyst for investment in a community. The extension of credit by a financial institution is viewed by others as an expression of confidence in the future of that community. Bank loans to housing and economic development projects result in visible improvements which become symbols of community improvement. Because of this, credit provision often leads to additional investment by developers; other financial institutions; and homeowners, landlords, institutions, and business-people within the neighborhood.

Minority and low-income communities have long been denied access to credit, a process called "redlining" for the red lines lenders would literally draw around maps of entire communities considered to be bad credit risks. In the early 1970s when redlining was most obvious, redlined areas may have been racially changing or close to those which were, and banks assumed property values would go down as a result of the racial change. Such large-scale denials of credit hastened the decline of many communities.

In a disinvested neighborhood resources primarily flow out of the community. Rent to absentee owners, utility payments, transportation costs, and most household expenditures are paid to people and businesses outside the community. But only a fraction of these dollars return to the area in the form of credit, jobs, or income for community residents. In a disinvested community, financial institutions take deposits from community residents but make their loans elsewhere.

Reinvestment can be seen as returning investment to the community to maintain and improve the quality of the community. Money, time, and energy can all be reinvested by organizations,

businesses, and individuals to strengthen the neighborhood in which they work or live. Financial institutions have a particular role in providing the credit needed to build the community.

The Community Reinvestment Act

The Community Reinvestment Act (CRA) of 1977 mandates that banks and savings and loan associations have a "continuing and affirmative" obligation to help meet the credit needs of their communities, including low- and moderate-income areas, consistent with considerations of sound business practice. In passing CRA, Congress affirmed that the privileges of regulated financial institutions, including the ability to offer federal insurance to attract depositors, carry responsibilities to the communities in which those institutions do business. Federal agencies regulating financial institutions are required to take the institutions's community investment performance into account when considering an institution's application for expansion or restructuring. CRA can be an effective tool for community-based organizations to ensure that credit is available in their community, and to assist in community development efforts.

Since passage of CRA, community efforts have resulted in dozens of lending agreements between community organizations and financial institutions, with lending commitments totaling billions of dollars. When used well, CRA is a tool that can help reverse or prevent the decline of neighborhoods. CRA provides a legal framework which residents of credit-needy neighborhoods can use to encourage local lenders to respond to community credit needs. The law does not spell out specific loan levels or amounts because credit needs and bank responses vary by community. That vagueness, however, encourages grass-roots initiative as community groups must look closely at their community, determine its financial needs, and work out just how lenders can reverse or prevent disinvestment.

Even before passage of CRA, community groups were trying to get lenders to meet their credit needs. Early community group tactics ranged from picket lines to petition drives to the disruption of regular bank business by opening and closing hundreds of $1 accounts. These tactics would continue until the lenders agreed to meet with the community groups.

Today, community-based organizations rarely need to resort to such actions to open a dialogue with local lenders. Beginning in 1989, federal regulators stepped up their compliance monitoring, rejecting several banks' applications for expansion. CRA activities have recently become much more commonplace in financial institutions, and lenders have become increasingly sophisticated, appointing specialized Community Affairs and Compliance Officers and often hiring outside consultants. Bankers are typically willing to discuss local credit needs with community groups. CRA is good business, too, and can benefit lenders–with a new market, good public relations, and the opportunity to expand and restructure their operations.

Provisions in the federal Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) passed by Congress in 1989 strengthen CRA as a tool for reinvestment. The Act requires that the results of all CRA exams conducted on or after July 1, 1990 must be made public. Public disclosure puts more pressure on lenders to improve their CRA ratings and on regulators to do a thorough job of investigating how well credit and financial services needs are met. Regulations developed in response to the new law also provide 12 specific Assessment Factors (see p.13) to be included in the examination and used to evaluate an institution's CRA performance.

The current regulatory environment, combined with continuing mergers and acquisitions in the banking industry, means that community-based organizations have an excellent opportunity to assess their credit needs now and in the future and ensure that lenders make the needed credit available.

Woodstock Institute has prepared this publication to guide community-based organizations as they work to use CRA to ensure that local financial institutions fulfill their responsibilities in meeting community credit needs.

Understanding Levels Of Credit Needs: Concentric Circles

2

Communities have a wide range of social and economic needs. Many of these needs relate to issues of credit and finance. The universe of economic needs in a community, however, is larger than the sound, bankable deals that are available to the area's financial institutions.

When community groups enter into discussions with bank officials, there is often a great deal of misunderstanding on both sides. When criticized by neighborhood organizations for not meeting community credit needs, bank managers often feel they are being pressured to make bad loans. At the same time, community groups, concerned with the full range of problems facing the community, may expect banks to meet social as well as credit needs.

The reality is that most banks can do substantially more to address credit needs of low- and moderate-income people and communities while remaining within sound business practices. It is also important for community organizations to demonstrate to bankers that they understand the line between responsible business practices and charity.

Woodstock Institute's Concentric Circles shows graphically the different levels of activity possible to meet community needs. Thinking about credit needs in terms of these concentric circles helps provide a framework for discussing your community's credit needs and for evaluating the efforts of individual financial institutions.

LEVEL 1

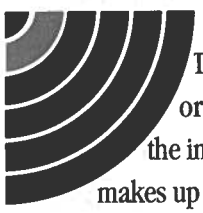
The Circle of The Financial Institution's Actual Market Share

The first, smallest circle stands for the amount a specific financial institution currently lends to the target area. Compare this amount to the circle in Level 2 to see this institution's market share of all the lending being done in the area.

LEVEL 2

The Circle of Total Loan Activity of All Lenders in the Target Area

The Level 2 circle includes all loans originated by the banks and savings and loan associations conducting business locally. These loans may go to individuals or businesses in the target area. If the institution you are interested in makes up only a small amount of the area's total loan activity you will want to find out why. The institution's loan products may not be



competitive with terms offered by other institutions, or it may not be marketing its products and services within your community.

LEVEL 3

The Circle of Bankable but Labor-Intensive Potential Loans

This middle circle represents the first level of bankable loans not now being made in your community. It includes potential loans that meet existing underwriting criteria but are more labor-intensive. It contains loans passed over because they require too much staff time. These loans are often smaller than those ordinarily made by banks. They may be loans needed by modest-income borrowers who have little or no experience with financial institutions and require more assistance in applying for a loan. Smaller loans, too, require more work relative to the return earned by the bank than do larger loans. Loans in this level also include non-traditional deals, perhaps to developers of mixed-use buildings. The financial institution may not consider such loans worth its time.

Such loans do require added effort and creativity. However, there is no higher risk involved in making these loans; instead, the higher cost to the bank is what stops them from being pursued. They require more time, but not subsidy. These types of loans are often the most important to the community and should be sought in a CRA agreement.

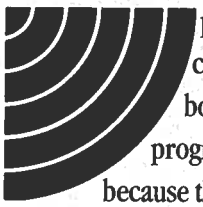
LEVEL 4

The Circle of Potential Deals Which Can Be Made Bankable with Third Party Support

In this circle is the final category of potentially bankable loans. These deals are those which could be made by the bank if outside participants were brought into the project to provide the insurance, subsidy, equity, or technical assistance necessary to make marginally bankable deals feasible. Credit enhancement mechanisms such as loan guarantees (eg., those provided by the FHA or SBA), interest rate subsidies, or equity participations contribute to making these deals acceptable to banks. Some non-traditional deals, such as real estate rehabilitation loans to nonprofit developers, also fall into this category.

These complex loans are essential to nonprofit developers who often cannot accomplish projects without some form of multiple financing and/or subsidy.

Banks can be encouraged to participate in public loan guarantee or subsidy programs and to promote those programs to customers and potential borrowers. Some of these programs can be attractive to banks because they bring added security, such as guarantees not available for conventional loans. Community-based organizations may be able to assist banks in identifying appropriate subsidy programs as well as potential borrowers.



LEVEL 5

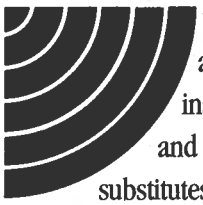
The Circle of Total Community Economic Needs

The next-to-largest circle represents the universe of unmet economic needs, for credit as well as direct financial assistance of individuals, businesses, and institutions within the target area. This level includes the financial needs of very low-income people and the nonprofit social service organizations which assist the disadvantaged.

The outer portion of this circle, the economic needs which cannot be met through labor-intensive loans or third-party partnerships, cannot be met through the provision of credit. Financial institutions can still participate in meeting the economic needs of the less creditworthy, primarily through charitable giving programs. Some financial

institutions may leverage other resources to address certain community problems. For example, the bank's lobbyists can work to secure legislative approval for public subsidy programs contributing to community development.

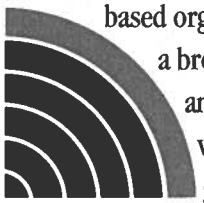
Charitable and advocacy activities by all types of businesses should be encouraged. Your community may have specific requests for donated assistance you want to pursue in a CRA agreement. For financial institutions, though, philanthropy and civic leadership are not substitutes for serving credit needs through regular business practices. That particular responsibility is the focus of CRA and should be the primary focus of a CRA negotiation.



LEVEL 6

The Circle of Total Community Needs

The largest circle encompasses all the possible problem areas in the community, from disinvestment to high crime to local school inadequacies to unemployment. For community-based organizations assessing local needs, a broad overview is essential. An analysis of local needs of all sorts will serve as a beginning tool for a group to understand its economic priorities in negotiating with a bank. Clearly, a community group will not expect local financial institutions to lower the crime or unemployment rates through a CRA agreement. Looking at this final circle is instead a means of seeing where credit needs fit into the growth and prosperity of a community.



Several conclusions can be drawn from the Concentric Circle description of activity necessary to meet community needs:

1 *Whatever amount of lending the bank is currently doing in the area, it is serving the community's needs for credit to some degree. (Level 1)*

2 *Community groups can ask the bank to improve its share of traditional, creditworthy deals in the community by being more aggressive in marketing to the area, by expanding its traditional loan products, and/or by modifying its loan products to be competitive with other banks in the area. (Level 2)*

3 *Without incurring any extra risk, the bank can serve even more of the credit needs in the community. It can spend more time on bankable but more labor-intensive deals. (Level 3)*

4 *By working skillfully and selectively with third parties to make marginally bankable deals possible, the bank can improve its community responsiveness without incurring unacceptably high risks or performing an unacceptable amount of extra work. (Level 4)*

5 *Within regulator-mandated criteria of safety and soundness, a community group cannot expect the bank to serve the community's needs through loans past Level 4. Level 5 activity entails grants and subsidies; the bank will no longer be acting as a lender, but instead as a contributor. (Level 5)*

Determining The Community Credit Needs

3

Before you start asking local bankers to expand their lending activities, your organization must first understand the area's financial needs and how they can best be met. Determining your community's credit needs is probably the most important step in developing a reinvestment program. Depending on your organization's activities and programs, you may have a lot of specific knowledge about credit needs, or only a little.

Start at Home

Pick your target community. Pinpoint the areas within the targeted community, city, or metropolitan area you feel are credit-needy.

Think about the need for jobs and housing in your community (the Level 5 circle of the Concentric Circles). Talk to members of other community organizations (including chambers of commerce, community development corporations, and grassroots community groups), officials from city and local government, realtors, local small businesspeople, and landlords. Find out how local nonprofit developers ordinarily find lenders for their projects.

The best way a community-based organization can gather information is by talking with members of the organization and other community residents. They may have experiences in trying to obtain credit for themselves or their business, in selling their homes, or other experiences which help pinpoint unmet credit needs.

Gather information through individual interviews. Or you may want to hold a public meeting to discuss credit needs.

Do a windshield survey: drive around the area and see for yourself what needs to be done. Look at:

- How many vacant lots are there? Vacant buildings?
- What is the condition of the housing that is there?
- Is there a need for improving houses? New construction?

Look at how your community's credit needs are being met right now. Is there a demand for loans or better housing? Are residents commonly turned down for loans?

Look at any community or government studies, census data, or other data already collected about the area. See how it supports the information you have gathered from the community. Census data may give you an idea of the scale of the needs you have identified. For example, if you determine that there is a need for multifamily building rehabilitation loans, census data can tell you how

many such buildings you have in your community. Other studies and data about your area may identify additional areas of credit need.

Think Broadly

If your group has an overall vision or plan for the neighborhood, think about how credit needs fit into that plan. How might addressing these credit needs affect other problems in the community? Answering this question helps you integrate your reinvestment activities with other activities of your group or other groups in your community. It also will help you in mobilizing additional support within your community, among people working on other issues.

Once you have input from interviews and other research, the next task is to focus that information into specific ideas for how credit needs might be addressed. Look at those needs which can best be met through improved accessibility to credit — construction, home improvement, home purchase, etc. Your research should tell you what kinds of loans are needed in the community, and to what extent credit is available to meet those needs. Your interviews may also provide more specific information about difficulties community residents or businesses have had in obtaining credit.

The more you are able to pinpoint needs and barriers, the more focused your conclusions about credit needs can be. For example, if you find that your community contains renters with sufficient income to purchase a home but lacking enough savings for the standard downpayment amount, you can focus on the need for special lending programs with lower downpayments.

At the same time, be sure the needs you pinpoint are real ones – if the bank offers new loan products tailored to your specifications, and there is ultimately little demand for them, you will not only have wasted the bank's time, but you will have damaged your organization's credibility with the bank.

Compile your research and conclusions into a written form, even if it is simply a two-page list of your key points. This writeup can be distributed within your own organization to better familiarize your leaders and members with credit issues. It should also be useful in your discussions with local financial institutions, whether or not it is actually distributed.

Taking Inventory Of Local Financial Institutions

4

After learning about the credit needs in your area, you will have a more informed view of what is needed from local banks and savings and loans. The next step is examining local institutions' current lending practices. Many sources of information will be helpful, from HMDA data and the bank's CRA Statement and Public File, to information from community residents and developers.

Key information available for each financial institution includes:

- CRA Notice
- CRA Statement
- CRA Public File
- CRA Performance Evaluation
- Home Mortgage Disclosure Act Data
- Annual Report

All these sources of information must be made publically available by a financial institution. Except for the CRA notice which is posted in the bank lobby, this information must be requested from the institution. Do not worry about alerting the bank to the fact that you are interested in their CRA activities. This is evidence of your seriousness in pursuing access to credit for your community.

CRA Notice

By law, the bank must have posted in its lobby a CRA Notice informing its customers of their rights under the CRA. This notice also names the bank's primary regulator and explains how to obtain the bank's latest CRA exam, if it is public. As a preliminary step, you will want to be sure that the notice is posted and you will want to read it.

CRA Statement

This document defines the bank's lending area and describes its overall strategy for meeting the community's credit needs. It is the institution's public statement of what it considers its local community and what credit needs characterize that community. The bank's board of directors is required to review the CRA Statement at least annually. The statement must include:

- a delineation of the institution's local community and those of its branches, with appropriate maps;
- a list of the types of credit it offers within that community (home improvement loans, home mortgages, commercial loans, etc.); and
- its CRA Notice.

In addition, financial institutions are encouraged to supplement the CRA Statement with information on:

- efforts made to determine community credit needs, including obtaining feedback from the community;
- specific steps taken to meet credit needs;
- a summary of its record of helping to meet credit needs; and
- a description of the marketing and advertising programs used to inform the community of its products and services.

The bank may also include a list of its officers' involvement in nonprofit community organizations as well as in special development-oriented projects and presentations.

CRA statements vary widely between institutions. Some will provide extensive details on the bank's lending policies and programs, or list all community meetings attended by bank personnel. Others will provide more general information.

In analyzing an institution's CRA statement, look carefully at what it actually says. A long, professionally produced statement does not necessarily reflect quality CRA performance, and a short statement does not necessarily indicate poor performance. The following are some of the questions you should ask:

Does the institution's defined service territory arbitrarily or unreasonably exclude low- and moderate-income and/or minority neighborhoods?

Is it unreasonably small compared to the size of the bank?

Has the bank followed through on its advertised loan products?

Are these types of loans actually offered in your community?

Do all of the bank's branches offer each type of loan product described in the CRA Statement?

How do the loan products offered meet your assessment of the community's need?

Do they include any flexibility or special features to make them more accessible to low- and moderate-income borrowers?

Is there evidence of the bank's performance in terms of actual credit extended or loans made, or does the statement seem to be focused on documenting the number of conversations held with community organizations?

Public CRA File

The CRA file contains copies of all signed correspondence, both positive and negative, relating to the bank's CRA activities. Regulators review this file when examining a bank's CRA performance.

Each time you write to the bank regarding CRA activities, request that a copy of your letter be placed in their CRA file. By doing so, you document your interest in the bank and let regulators know you have concerns about its CRA performance. CRA regulations require the regulators to take into account the views of all interested parties when considering an institution's application. If you do write CRA-related letters to the bank, you should check the public file to make sure your correspondence is included there.

To review the public file, go to the bank and ask to see it. When you do, also take note of the response you get from the bank. Is it easy to obtain? Is the staff familiar with CRA? The bank's response may give some idea of the bank's commitment to CRA and its level of employee education on CRA requirements.

CRA Performance Evaluation

Before 1990, regulators' CRA examinations were not directly helpful to community-based organizations -- first, because they were not made public; and second, because they consisted of a single numerical rating with no detailed explanation of why the institution received that rating. Now, a comprehensive rating that includes an assessment of the bank's performance in several areas must be made public, and both bankers and regulators are taking CRA more seriously.

Those banks examined by the regulators since July 1, 1990 must make their examination public by placing it in their public file within 30 business days

of receiving it from the regulatory agency. Applications Bulletins from the Federal Reserve Bank and the Office of the Comptroller of the Currency also list those banks which have been recently examined and have ratings available to the public.

The frequency with which a bank is examined depends upon its size, which agency regulates it, and how high its last rating was. The time between examinations has varied from six months to ten years.

The performance evaluation done by the regulators will contain the date of the evaluation,the name and address of the institution and its supervisory agency, and a detailed discussion of the institution's performance.

Regulatory Agencies and the Institutions they Regulate

Federal Reserve Board	All bank holding companies and those state-chartered banks which are members of the Federal Reserve System
Federal Deposit Insurance Corporation (FDIC)	State-chartered banks insured by the FDIC and which are not members of the Federal Reserve System
Office of the Comptroller of the Currency (OCC)	Federally-chartered banks, those with "National" in their title
Office of Thrift Supervision (OTS)	Federal and state savings and loan associations

Banks may receive one of four possible ratings of their record in meeting community credit needs:

- Outstanding
- Satisfactory
- Needs to Improve
- Substantial Noncompliance

As of March 27, 1991, regulators had rated 1,659 commercial banks. Of these, 81% received a rating of Satisfactory and 8% were deemed Outstanding. Just over 10% of the banks received a Needs to Improve rating, and only eight banks, or less than one percent, were rated as in Substantial Noncompliance with the CRA.

All CRA examinations are based on twelve CRA Assessment Factors developed by the government regulatory agencies (see page 13). The factors fall into five general performance categories: 1) Ascertainment of community credit needs and marketing; 2) Types of credit offered and extended; 3) Geographic distribution of loans; 4) Discrimination or other illegal credit practices; 5) Community development.

The fact that an institution has received a Satisfactory or even an Outstanding rating does not place it beyond criticism. It may mean that there is nothing in the public file criticizing a bank. Regulators often do not go beyond information supplied by the bank or the public file in performing their exam. The type of analysis which can be done by a community group familiar with the area and with local credit needs can provide new evidence or raise new questions which can change the regulator's opinion of the bank's CRA performance.

Community groups have, in fact, challenged the expansion plans of banks with Outstanding ratings. One such protest in San Francisco resulted in one of the largest targeted lending commitment ever from a U.S. bank – $5 billion in community lending pledged by Bank of America over ten years in response to protests by the Greenlining Coalition.

Communicate with the regulators if their examination results conflict with your assessment of the financial institution's reinvestment performance. Even if you are not currently engaged in negotiations with the bank, these comments will be important to any future discussions with the bank or regulators.

Home Mortgage Disclosure Act (HMDA) Data

Data disclosed through HMDA is invaluable in analyzing the level of actual lending in your community, as well as how that lending compares to a bank's lending in other communities. The Home

Mortgage Disclosure Act, enacted by Congress in 1975, requires all banks, savings and loan associations, and credit unions with over $10 million in assets to report the number and dollar amount of their housing loans by census tract[1]. The data specifies single family (one to four units) conventional and FHA/VA loans, multifamily building loans, and home improvement loans by number and dollar amount of loans per census tract. HMDA does not apply to banks in rural areas.

A 1989 amendment to HMDA requires reporting financial institutions to report the race, gender, and income level of loan applicants and those who ultimately received loans. They must also report the number of denials and withdrawn applications, and may include the reasons for loan denials. This information is available beginning with loans made in 1990.

Obtaining HMDA Data

A bank must make five years of HMDA data available at its main office. In addition, if it has offices in more than one metropolitan area, it must make the data available in one branch office in each area. At any office, the bank should be able to tell you where you can review or obtain its HMDA data. If you want a copy of the data, the bank may charge a small fee for copying costs.

In addition to individual financial institutions, HMDA data is made available at central depositories in each metropolitan area. These depositories have data from all area financial institutions, and are therefore a more efficient way to obtain data from a number of institutions. A listing of central depositories can be obtained from the Federal Financial Institutions Examination Council (see Appendix D.) Some nonprofit organizations and university researchers have secured computerized HMDA data and most will make it available to community-based organizations, although there is sometimes a fee for the cost of producing the information (see Appendix D.)

1 A census tract is a standard geographical area defined by the U.S. Census Bureau and used to report all census data. A census tract is a fairly small area--typically several square blocks in a city neighborhood, depending on the population density of the area.

Analyzing HMDA Data

HMDA data can help you answer two different types of questions. It can tell you the extent to which an individual financial institution is lending in your area or in other areas; and it can tell you how well your community is being served overall by your area's financial institutions.

To analyze an individual bank's record, obtain a census tract map of the bank's service area (from your local government, Census Bureau office, or library) and plot the bank's loans on the map to see where the bank is actually lending and whether it is lending to your area. Current census tract-level data on race, income, types of housing, etc. can also be obtained from these sources. Compare higher income tracts in the bank's service area with lower income tracts. Compare predominantly white tracts with tracts which are predominantly black or Hispanic. Look for patterns related to these factors for 1991 and later data, look at the number of applications received as well as the number of loans made.

HMDA data also reveals useful information about the types of loans a bank is making. Look at the match between the type of housing in your area and the types of loans the institution is making. If the bank is making only single family loans but your area is mostly multifamily buildings, the bank is not meeting the needs of your community. Look at the pattern of conventional loans vs. government-guaranteed loans (FHA or VA) being made by the bank. Because FHA and VA loans require lower down payments and allow higher housing costs and debt-to-income ratios than conventional loans, a bank which is making only conventional loans may not be serving the needs of lower income buyers. On the other hand, a bank which has split its market, making only conventional loans in some

Twelve CRA Assessment Factors Used By Regulators In CRA Exams

1. Activities conducted by the institution to ascertain the credit needs of its community, including the extent of efforts to communicate with members of its community regarding the credit services being provided by the institution.

2. The extent of the institution's marketing and special credit-related programs to make members of the community aware of the credit services offered by the institution.

3. The extent of participation by the institution's board of directors in formulating the institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act.

4. Any practices intended to discourage applications for types of credit set forth in the institution's CRA statement.

5. The geographic distribution of the institution's credit extensions, credit applications, and credit denials.

6. Evidence of prohibited discriminatory or other illegal credit practices.

7. The institution's record of opening and closing offices and providing services at offices.

8. The institution's participation, including investments, in local community development and redevelopment projects or programs.

9. The institution'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.

10. The institution's participation in governmentally insured, guaranteed, or subsidized loan programs for housing, small businesses, or small farms.

11. The institution's ability to meet various community credit needs based on its financial condition and size, and legal impediments, local economic conditions, and other factors.

12. Other factors that, in the agency's judgment, reasonably bear upon the extent to which an institution is helping to meet the credit needs of its entire community.

These 12 assessment factors fall into five general performance categories used by the regulators:

I. Ascertainment of community credit needs and marketing (Assessment Factors 1, 2, and 3)

II. Types of credit offered and extended (Assessment Factors 9 and 10)

III. Geographic distribution of loans (Assessment Factors 4, 5, and 7)

IV. Discrimination or other illegal credit practices (Assessment Factor 6)

V. Community development (Assessment Factors 8, 11, and 12)

areas and only FHA loans in other areas, may be practicing redlining through an unwillingness to commit private dollars to loans in some areas.

You can also examine the size of loan the institution is making to determine whether it is serving the overall market, or focusing only on the upscale end of the market. Compare the bank's average loan size in an area to average home prices in the area,or check the percentage of the bank's loans that are at or below the median home sales price.

You can also use HMDA data to compare the banks in your community. Compare the total lending being done in your neighborhood and see which banks are making the loans. Look at how the lending done in your community differs from lending in other neighborhoods with similar and different characteristics (income, race, etc.).

If your research is being done in connection with negotiations related to a CRA application (see chapter 5), you will probably not have time to do a thorough analysis of all the banks in your area. Comparing some individual banks, however, may help you demonstrate that the bank with whom you are negotiating could be doing more lending in your area. Make sure your comparisons take into account different sizes and service areas of the institutions compared.

If you have more time and credit availability is a major issue for your organization, you may want to undertake a more extensive analysis. Depending on the resources of your organization, you may do this analysis yourself, or you may seek some outside assistance. University professors or students may be able to assist in research. Or you may be able to enlist another organization to undertake an analysis, either specifically for your neighborhood or citywide.

Whether you look at an individual financial institution or at many institutions, it can be helpful to examine two or three years of data, rather than only one. Lending by a single institution for a single year can be influenced by many factors, including interest rate fluctuations, changes in housing values, and regulatory pressure. Your conclusions will be more reliable if based on more than one year of data.

One complication in a multi-year analysis is that in many areas, particularly those with major changes in population, census tract boundaries are changed with each ten-year census. If this is the case, comparing information over several years is somewhat more complex. Most often, tracts are subdivided into two or more tracts. You may recombine the divided tracts for consistent data, or keep the subdivisions because of demographic differences between them. Make sure you are aware of any changes in census tract boundaries in your area. If there are significant changes, make sure you know what boundaries were used by the institution in reporting its data.

HMDA Application and Denial Data

The HMDA data on race, gender, and income of applicants and borrowers, collected beginning in 1990, provides new opportunities for analysis of financial institution performance. While HMDA data has traditionally only provided information about the *neighborhoods* to which credit is supplied, new data provides information about the access of *individuals* to credit.

The 1990 HMDA data, released in October, 1991, indicates substantial differences in application and approval rates between minority and nonminority borrowers. Nationally, denial rates for minority applicants are more than twice those of nonminority applicants, and more than four times as high in some metropolitan areas. While the data has not been thoroughly analyzed at this writing, it raises a number of questions which could be addressed in a CRA negotiation.

Written HMDA reports obtained from an individual bank, a central depository, or the regulatory agencies include race, gender, and income information for an institution's overall service territory or a specific metropolitan area. A breakdown of this information by census tract is

purchased from the Federal Financial Institutions Examination Council (see appendix D). Thus, while a detailed breakdown of race, income, and gender data is possible, it is not feasible for most organizations or in most situations.

Banks have been quick to point out that HMDA data alone does not constitute proof of discrimination in individual cases, since credit decisions are based on information not disclosed through HMDA. While this is correct, patterns indicated through this data, just as through disclosing geographic patterns of lending, point out a number of specific areas for further investigation and discussion with a financial institution.

There are two primary areas to examine in analyzing this data. First, look at the number of applications received by the bank, in relation to the size of the institution and the racial and income makeup of its service area. An institution with few minority applications, for example, may not be marketing to minority borrowers, or may be discouraging such applications through their application procedures, loan products, or the attitude of bank personnel.

Second, look at the proportion of applications approved by the financial institution. Does it differ by race, income, or gender? If the institution provides reasons for denials, you may want to look at those. Differences in approval rates could be tied to specific underwriting standards, lower appraisals in minority communities, and/or discriminatory practices.

The questions raised by each of these examinations may point you to additional research into an institution's policies and practices. An institution can and should be asked to address these issues in your CRA discussions or negotiations.

Bank's Annual Report

The annual report is valuable because it shows how the bank report is prepared for the stock

bank in its most positive light. It usually explains the types of lending a bank specializes in and describes what the bank officials see as its future. It includes financial information on the volume of loans the bank has made, as well as other statements of its financial condition.

When you read the bank's financial statements, look at the bottom line. Is the bank making a profit? You should also look at the proportion of the bank's total deposits which are lent out. Industrywide, banks lend out an average of 80% of their deposits. Is this bank an active lender, or is it simply investing a large proportion of its deposits in U.S. Treasury Bills or other non-lending investments or deposits?

Other Sources of Information:

Get the institution's brochures describing its loan products (usually available in their lobby). Does the information there match the bank's description of its loan products in its CRA materials? How do fees and interest rates for loans compare to other institutions? You may also want to look at the bank's other financial services. Does the bank provide public-assistance check cashing? Does it offer low fees to open an account? Does the bank have any branches or ATMs in low-income areas?

Ask members of the community about their experiences with that bank — residents, developers, real estate brokers, etc. Include experience with the bank's attitude as well as its lending policies. Are personnel helpful and knowledgeable? Do they encourage potential borrowers?

Look at the advertising the bank does. Does it advertise in minority newspapers or on minority radio stations, and/or in languages other than English?

Look for newspaper articles about the bank within local papers, or for larger banks, the *American Banker* or *Wall Street Journal*.

Dialogue To Agreement

5

Starting a Dialogue

Having examined your community's credit needs and the lending records of the financial institutions serving your community, you are prepared to begin a dialogue with your targeted financial institution.

The current regulatory environment favors an early and continuing dialogue between community organizations and financial institutions. Regulators urge community groups to voice their CRA-related concerns as they arise and not to wait to make a surprise protest against a bank application. This climate also means that banks are more likely to be interested in negotiating agreements at times other than when merging with or buying another bank.

It is also to your organization's advantage to open a dialogue and to negotiate a lending agreement outside of a CRA-related application. The main reason is that you will not be under the time constraints of an application process. Time limits on public comments to bank applications vary by regulatory agency; typically, however, you will have no more than a couple of weeks, often less, from the time you find out about a pending sale or merger and the comment period deadline. While a CRA-related application obviously gives a bank a compelling reason to negotiate with your organization, you should seek to open a dialogue at any time your group is interested in and ready to do so.

Though you may begin a dialogue with your bank at any time, you should be aware of any particular CRA opportunities which exist. Many CRA opportunities can be identified by carefully monitoring the local business press or the business sections of local newspapers. Financial institutions often publicly announce their plans in plenty of time to allow negotiation to take place. A more thorough source of information is the regional office of the Federal Reserve, Comptroller of the Currency, Federal Deposit Insurance Corporation, or Office of Thrift Supervision. These offices each distribute Applications Bulletins (see Appendix D for how to obtain) which will alert you to when a bank is applying to open a new branch, acquire another branch, or establish a holding company—all applications which could be denied on the grounds of poor CRA performance. Send a letter requesting that your organization be placed on the mailing list.

In addition to monitoring CRA-related applications, be aware of the date of an institution's last CRA exam. A recent unfavorable exam, or an upcoming new exam, may mean a bank will be looking for reinvestment opportunities.

related application by the bank, it is essential to work within the regulatory time frame for comments and protest. Contact the regulatory agency overseeing that bank as soon as you learn of the application to verify the comment period deadline. Meetings with the bank should begin as soon as possible, so that you will have time to work towards an agreement before the deadline. Because the comment period is short, you should expect an intensive period of discussions within that time. To meet the deadlines, some of the steps below may need to be condensed.

If your organization is on the mailing list for notification by the regulators, but you do not receive timely notification of an application, you may want to ask for an extension for filing a protest. Such a request will not necessarily be granted, and you should proceed as though you must meet the original deadline.

The general process for initiating a dialogue with a bank should include the following steps:

1. Consolidate your Findings and Proposals

Before beginning discussions with the bank, both your research into community credit needs and your research into the lending record of the bank should be developed into a clear summary and presentation. Make sure the facts justify your description of the need. At the same time, you should know what it is you want from the bank. The more specific you are able to be at this point, the more focused your discussion with the bank can be. For example, if you find that community residents need additional access to mortgages, what are the barriers to using this bank as a source for mortgages in your community? Are there specific changes needed in the products offered by the bank—lower downpayments, a higher debt-to-income ratio when determining if a potential buyer qualifies for a mortgage, reduced interest rates, or the bank? Prioritize your proposals. Decide what types of loans are most important to your community and why. As you do this, you may want to get advice from technical assistance providers familiar with CRA agreements.

2. Build your Coalition and Support

Build support in your community and among community leadership for your position. Build a coalition beyond your organization if that is appropriate.

Choose a negotiating team representing diverse constituencies or expertise within the group, such as housing developers and homeowners. Be sure this team meets with the larger group regularly, as well as meeting before each negotiation session with the bank, in order to agree on a consistent strategy. Get letters of support from other community leaders (e.g., business owners, influential church leaders, elected officials).

3. Think About your Group's Ongoing Role

What role is your organization interested in or able to play in the implementation of a reinvestment program? While the role you will want to play will depend on the type of program you are ultimately able to negotiate, you should have a general sense of your organization's interests and capacities before you start.

If your organization is involved in community development activities and has staff with lending or development experience, you may be interested in a loan packaging or screening role. Usually this means that your organization would solicit applicants, screen for suitability for the program, take their application, compile all needed supporting documentation, and forward a completed application and paperwork to the bank. The bank should pay your organization a fee for this work, which represents a savings of its own staff time. A more limited role could include simply screening potential applicants for eligibility and

This loan screening/packaging arrangement has been built into a number of CRA agreements including several agreements with downtown Chicago banks, and has been beneficial to the organizations involved and to the bank. In other cases, banks have been strongly opposed to involving outside groups in any loan application-related work.

If your group is primarily an advocacy, not a development group, you may want to have a monitoring rather than a technical services role. In this case, you should make sure that your organization and the community have appropriate representation on a review board (see Chapter 7).

In addition to, or instead of, either of these roles, your organization may want to play a role in marketing the loan program within the community. You may want to do this informally, or you may want to negotiate a formal arrangement, including appropriate fees.

4. Request a Discussion

Write a businesslike letter to the President of the bank formally requesting a meeting. You do not need to list your findings in detail; merely outline your areas of concern clearly and briefly. Follow up with a phone call to set up an initial meeting.

Dear (Bank President):

We are a community organization/coalition involved in neighborhood reinvestment in the _____ area. We are concerned that there are unmet credit needs in our community.

We have conducted our own investigation of the credit needs of our community, and would like to meet with you to discuss our findings, as well as to share ideas of how these credit needs can best be met.

We request that this letter be placed in your CRA file. We will be happy to cooperate with any federal regulatory agency examining your banking activities in our neighborhood for CRA compliance.

We look forward to working with you to improve our community's access to credit and financial services. We will contact your office next week to arrange a convenient meeting time.

Sincerely,

cc: Chairman of the Board Official of appropriate regulatory agency
Community Affairs Officer

Sample letter to initiate contact with a financial institution

Negotiating a Reinvestment Agreement

Coming into a dialogue prepared is one of the most important factors in negotiating a reinvestment agreement which will be meaningful to your community. There are a number of additional points to keep in mind as you work to negotiate a reinvestment program with the bank.

Negotiate with a senior level decision maker.

Negotiate with someone high enough in the organization to actually make decisions. It is frustrating and unproductive to talk with someone who must always go back to the boss before

Make sure that you are communicating.

Don't assume that you are negotiating with someone who plays by the same rules as you do. Don't even assume that he/she speaks the same language. For example, the word partnership to a nonprofit organization is a short-term cooperative effort; to a businessperson it is a legal form of ownership. Equity means justice to most nonprofit organizations, but to a banker it means the amount of an owner's cash in a deal.

Recognize your own expertise.

While you don't know banking as well as the bankers do, you know your community and the people in it much better than the banker does. You are the expert on your community's needs and problems. In your discussions, focus on educating the bankers on the community and its credit needs. If your organization is involved in housing or

organization does, its technical expertise, and its experience with and understanding of available public subsidy programs.

Demonstrate the community's credit needs as graphically as possible.

Remember that people learn best when they experience things directly. Rather than just talking about community needs, take bank officials on neighborhood tours of local development projects and show them people and places that demonstrate the credit needs of the community. Do not assume that the banking officials know first-hand about the needs of your neighborhood or can see them from your perspective without your help.

Well-planned local tours can be a critical part of the negotiation process. They provide you and the bankers with whom you are talking with a shared experience of the community, help establish your credibility, and provide concrete examples of what the bank can do.

Present reasonable demands.

Ask that the bank to stretch its business practices to serve your customers and needs. Do not expect them to change their business, to forgo their profit, or to take on high levels of risk.

Speak to the other side's self interest.

Remember that your reinvestment program can probably provide the bank with good public relations, profitable new customers, good loans, and a terrific CRA statement. Remind the bankers that you have an interest in good deals too—the last thing you want are a lot of boarded-up houses and business as a result of bad loans.

Don't play your cards too soon.

Even if hundreds of people are ready to picket the bank if things don't go well, do not call them out unless the negotiation hopelessly breaks down. However, make sure that the bank knows (without a clear threat) that your organization has the ability to produce or withhold [illegible]

decided.

Write down everything that is discussed and everything agreed upon. Make sure that clear decisions are made on all the points you lay out for discussion. Summarize all points agreed to at the end of each meeting, both orally and in writing.

Get your final agreement signed by the chief executive officer and/or a representative of the Board of Directors to ensure the full commitment of the financial institution.

What Should you Expect from the Bank?

Community groups have reached dozens of successful agreements in cities across the country. For example, in 1984 the Chicago Reinvestment Alliance, a coalition of community-based organizations and development groups, negotiated with three of Chicago's largest banks. Altogether, the banks set aside $173 million for neighborhood lending over a five year period. In 1986, the 37-group Eastern North Philadelphia Initiative Coalition negotiated a $55 million lending agreement with one local bank. In 1990, Security Pacific Corporation committed $2.5 billion to community lending over ten years, and Wells Fargo & Co. committed $1billion over seven years.

While some banks may be able to lend on a grand scale, community groups must be aware of what is reasonable to expect from the banks they deal with. Community banks will not be able to set aside as much as regional or money center banks can, and, of course, small banks have more limited resources than large banks.

Be sure to look at what kinds of lending the bank does well. Community groups may not want to ask a bank to develop an entirely new loan product, since that may not be as efficient as expanding the scope of what the bank does now. For example, it will be difficult for a bank that specializes in small business lending to design a

A good reinvestment program is hand-crafted to meet clearly articulated community development goals, and is structured so as to be easily implemented, monitored, and evaluated.

A reinvestment program that can be successfully implemented will address a set of community credit needs for which there is potential and unmet demand; reflect the strengths and limitations of the bank; direct bank resources towards new products and customers; recognize the abilities and limitations of each partner to carry out portions of the program; and creatively bridge the gap between the needs of communities and the ability of the bank, through its normal business, to meet those needs.

The following are some of the ingredients of a reinvestment partnership program:

The program is designed to meet the unmet banking and credit needs of the community.

It contains a mixture of needed provisions, such as mortgages, home improvement loans, and small business loans. It contains no provisions that are not needed and few provisions for which there is little existing loan demand. It may contain agreements as to the process by which certain lending-related activities such as appraisal or loan packaging will be carried out.

The program clearly reflects the goals of the participating organizations.

A housing development organization may be seeking financing for rehabilitation of apartment buildings, while a business organization may seek lenders who will make Small Business Administration (SBA) loans. Organizations should also consider how the agreement can assist other community-based organizations, like community development corporations and community development credit unions.

The program works for the people it is meant to serve.

Each reinvestment partnership must be carefully evaluated to ensure that the problems being addressed have banking or credit solutions. Then, the program must be creatively designed to ensure that the customers addressed can afford to use the programs offered. This sometimes requires that outside technical assistance be enlisted to help design a program that results in afford ability through the best, most highly leveraged use of government subsidies, insurance programs, contributions from foundations, bank participation in public programs, incentives, and credit enhancements.

The program is structured simply, and each partner's responsibilities are as close as possible to normal business practice.

A simple program design will help all partners and users clearly understand its goals and operations. A program which allows each partner to do what it does best is most likely to operate smoothly. For example, financial institutions are set up to accept and evaluate loan applications. If community meetings are required to market the program, these can be more successfully arranged by community organizations.

The partnership is clearly and carefully structured so that each partner organization has a role to play.

A partnership in which a community organization does the marketing, another does loan screening, and the bank makes the loan may ultimately work better than an agreement leaving total responsibility to the bank. Partners should be equal but independent, should be assigned to do what they each do best, and each should have a self-interest in making the partnership work. For the financial institution, the self-interest is profitable business, good service to customers and a high CRA rating. For community organizations, the self-interest is building membership through good service to constituents. Fees may be charged to help compensate the community organization for the costs associated with its marketing efforts.

Public subsidies are used strategically if needed to make the program affordable.

A public agency may become a partner if public resources are needed to improve the program. It may provide subsidies, loan guarantees or deposits. Effort should be made in the program design process to avert unnecessary red-tape and delays when a public agency is part of the partnership.

The community has a role in program design, implementation, and monitoring.

This is the reality test that ensures that community needs are being met and all partners are carrying out their responsibilities as agreed upon.

substantially lower interest rates, they may make small concessions for some types of targeted loans. They are more likely to offer outreach and technical assistance to low-income borrowers.

It is reasonable to expect a commitment of a specific amount to be loaned in a certain area over a defined period of time; changes in loan criteria for applicants from a certain area or for certain types of loans; the appointment of a bank officer to oversee CRA activities; and an agreement to meet periodically with community representatives.

Banks will almost always oppose certain demands, such as significantly below-market interest rates on loans, or outside control over the bank's loan decisions or corporate contributions. Because these types of actions are not required by CRA or expected by the regulators, pushing these types of demands may just convince the bank that your organization is not seeking a constructive agreement.

Involving Outside Assistance in Negotiations

Many organizations have found that outside legal assistance can play an important role in successfully formulating an agreement. If you are negotiating an agreement in the context of a possible CRA protest, legal assistance may help you better utilize existing regulations. If a major conflict with the bank is likely, you will want to have a lawyer to advise you (you can be sure the bank will). You may want a lawyer to help you draw up your agreement, or review what you have developed.

While a lawyer can play several very valuable roles, it is generally not advisable to bring him or her to negotiating sessions. Your discussions with the bank, particularly the early ones, should be focused on working together to meet community credit needs, not on legal details. If you bring a lawyer, the bank will respond with theirs, and the tone of your meetings will be substantially changed. It is also important for your group to establish itself as experts

situations may evolve to a point where you feel the presence of your lawyer is important to the negotiation, or would lead the bank to take your threat of protest more seriously. Think through the situation carefully, however, before involving your lawyer in negotiations.

Regulators can also play a role in negotiations. Regulators see themselves as neutral parties, and do not act as arbitrators of negotiations between banks and community groups. Again, it is probably best to work without the regulators in early stages of negotiations. If you believe that you are likely to have to file a challenge, however, and that your case will be strengthened by having a regulator observe your negotiations with the bank firsthand, you may want to invite their participation. In a challenge situation, even if you do not involve the regulators in your negotiations, you will want to keep in close touch with them to be sure that you fully understand the regulatory process and that they are aware of the progress of your discussions.

Across the country, there are a number of organizations with experience in negotiating CRA agreements (See Appendix D for a list of some of these organizations). Advice from one of these organizations can be very helpful at many stages of the process. You may want to contact one of these groups before you begin your negotiations and consult with them as your negotiation process develops. These groups may also be able to put you in touch with other organizations facing similar issues or credit needs as yours, and give you copies of other lending agreements or other resources that can assist you.

Using the Media

Like legal assistance, the media is a strategic tool to be used in your process. Used well, the media can help you get the greatest results from your agreement. How you use the press, however, can have a significant impact on the success of your

be used to call attention to the overall need for credit in your community. Release of your credit needs analysis is one way to do that. Publicity can be helpful in persuading a bank to meet and work with your group. Publicity also can call attention to your success in developing a new lending program with a financial institution.

There are two ways in which it is often not productive to use the media. First, don't use it as your first method to get the attention of the bank. Try going directly to the bank first. If they begin a negotiation with you after a direct approach, it will be on a more positive note. If you have done research showing the bank's poor lending record, attempt first to share it with the bank and offer them the opportunity to work with you to design a program that will improve their performance and their image in the community.

Second, don't negotiate through the media. If you are in ongoing discussion with the bank, respect the process and keep your discussions private until you either reach an agreement or negotiations break down.

If your organization is unsuccessful at getting the bank to agree to meet with you, or if the bank refuses to provide you with information you request, you may want to use the media to apply pressure on the bank. Provide the media with a press statement expressing your desire to work with the bank to improve its reinvestment performance and release facts from the bank's lending record. You may want to stage a press event to draw attention to the bank's record and unwillingness to talk. For example, you may want to ask the press to accompany you as your representatives seek a meeting with the bank president.

If you are successful in opening discussions with the bank, the press can be used as a positive tool in those discussions. Make sure the bankers know that you look forward to a public announcement of your new agreement, and that it

If negotiations break down, and your organization files a formal challenge to a bank's application to its regulatory agency, you will want to use the press as much as possible. Publicity about the bank's lending record and your attempts to negotiate give the situation a higher profile, for the regulators as well as the public.

If negotiations result in an agreement, you will want to publicize it. You may want to hold an official signing ceremony to announce the agreement. Official signers should include the bank's president and/or its board chairman, and the president of your organization as well as any other groups involved. Invite others to attend, including members of your organization, other development organizations, and key city officials.

Work jointly with the bank to structure and publicize the signing ceremony and public announcement. Develop a joint press release. In addition, you may also want to develop subsequent publicity for the agreement either with the bank or on your own.

Of Successful Agreements

6

No two lending agreements are the same. Depending on your local issues, the existing lending activities of the bank with which you are negotiating, and its size, your agreement may be relatively simple or extremely complex, cover a few key activities or detail a comprehensive program.

The model agreement printed beginning on page 31 is an actual agreement which covers a comprehensive range of areas addressed in lending agreements. While the specific terms will differ, some combination of these components will be appropriate for your situation.

In addition to this model, there are many different local solutions to community reinvestment. The following are examples taken from other CRA agreements from across the country, illustrating different types of provisions that your group may want to negotiate from a financial institution.

1. Amount of money to be committed to lending in low-and moderate-income areas, to nonprofit developers, etc.

Request specific amounts committed to specific loan products.

The following are categories of loans you may want to consider including (you should select those

Residential loan products:

- Single Family New Construction and Purchase/ Rehab Loans
- Home Improvement Loans
- Multifamily Mortgage Loans
- Multifamily Gap Financing for Nonprofits
- Foreclosed and Abandoned Home Purchase Program
- Loans for Residential Cooperatives

Commercial and Industrial Loan Products

- Mini Loans ($10,000-$50,000)
- Small Business Loans ($50,000-$200,000)
- Mixed Use Property Loans

If the lender will not pledge specific dollar amounts, perhaps the bank will pledge to lend a certain percentage of its assets to certain programs.

EXAMPLE:

BANK pledges to raise its level of investment in the following programs to at least 5 percent of the BANK's assets in the second year, 7.5 percent of its assets in the third year, and 10 percent of its assets in the fourth and fifth years.

2. Support to other lending intermediaries

In some cases, a bank may be able to supplement its direct reinvestment lending with

ity development credit unions or community development loan funds. These intermediaries typically limit themselves to providing lending and financial services to lower income people and community development projects not considered bankable. Community development credit unions, for example, typically provide small loans and financial services geared to low-income people who have more transactions and lower balances than what banks consider profitable. Community development loan funds provide low-cost capital with more flexible under-writing criteria to community development projects.

While support for such intermediaries should not substitute for efforts by the bank to expand its direct lending in the community, such support is an important complement to direct lending programs, and may be the only way for the bank to assist in meeting some types of community needs. Capital grants and deposits in CDCUs and community loan funds are an excellent way for banks to aid low-income areas in their communities while avoiding the risks and high costs of making those loans themselves. In addition, nonmember deposits in community development credit unions are insured up to $100,000 per depositor.

Example A:

BANK will place a $100,000 insured deposit in Federal Community Development Credit Union by purchasing a three-year Certificate of Deposit at three percent interest.

Example B:

The Federal Community Development Credit Union is a quality provider of very small loans to individual and small business borrowers, and of low-cost banking services to low and moderate-income customers. BANK will support their efforts through purchasing a low-interest certificate of deposit for $100,000; providing a grant for the CDCU's reserves from BANK's foundation; providing programs to educate consumers.

Example C:

BANK will provide free check cashing for community development credit union withdrawal and loan checks. BANK will provide an interest bearing checking account to CDCU. BANK will make payroll deductions for bank employees who join the Community Development Credit Union.

3. Targeted borrowers/areas

It is a good idea to be specific in all parts of your agreement, including describing targeted borrowers and beneficiaries.

Example A:

This program is targeted to applicants whose gross household income does not exceed $XX,000, or, in the case of multifamily lending, to property with rental units affordable to households with incomes of $XX,000 and under.

Example B:

This program is confined to those neighborhoods of CITY and municipalities in the metropolitan area with a median household income equal to or less than 75 percent of the median household income of the CITY metropolitan area.

4. Alternative underwriting criteria or special terms

Be sure your constituents can afford the potential services and they are truly accessible and available, not just offered on paper.

Example A:

BANK will consider loans where projected housing costs (mortgage, taxes, and utilities) are up to 40 percent of an applicant's income, rather than the standard criterion of 28 percent in cases where an applicant has at least a two-year history of on-time rent payments of up to 40 percent of income.

Example B:

In purchase/rehabilitation loans which include

in calculating total housing costs and the ratio of housing costs to an applicant's income.

Example C:

BANK will make loans to nonprofit developers without recourse to the organization's individual board members.

5. Special review process for reinvestment program applications

Because different underwriting or other criteria may apply to loans made through the reinvestment program, it is important that special efforts are made to ensure all qualified applicants receive loans.

Example A:

All applications under the program will have senior management review before any loan is declined.

Example B:

No applicant will be denied a loan without being told why, and a letter of denial will be furnished to the applicant upon request so that he/she may use the declination to qualify for credit through government or other support programs.

6. Financial services, non-credit-related

While CRA deals specifically with meeting a local area's credit needs, you may want to address other financial services need in your community. While your agreement should focus primarily on credit-related programs, a number of agreements have also included provisions for additional services.

Example A:

The BANK Public Aid check cashing program, which cashes public aid checks for $1.00, is open to all residents of the targeted area.

Example B:

BANK will offer to cash government checks for all senior citizens over the age of 65. Senior citizen customers of the bank will not be charged a

BANK will establish one automated teller machine at a mutually agreed upon location in the targeted community.

Example D:

BANK will provide a bill payment facility through a debit card service. The cost of this account will be fixed at $2 per month during the term of this agreement.

Example E:

BANK, together with the Federal Credit Union and ORGANIZATION, will create and market a series of basic consumer education workshops on financial services, targeted to low-income residents of the targeted communities. The purpose of these workshops is to help low-income residents understand how to make best use of their financial resources, and avoid paying excessive fees to currency exchanges.

7. Provision for an oversight committee

After the agreement has been signed, representatives from the bank and from the community must meet periodically to evaluate progress (see further discussion of monitoring in Chapter 8).

Example A:

Within 60 days of the acquisition of BANK by HOLDING COMPANY, a Review Committee will be formed consisting of six persons, three of whom will come from the community and will be selected by ORGANIZATION, and three of whom will come from BANK. The Committee will meet quarterly, or more often if necessary.

Example B:

BANK will form a Review Board made up of ten people to assist BANK in the successful implementation of the Neighborhood Lending Program. The Board will be made up of five people named by BANK and five people named by recognized neighborhood based organizations

provide advice on loan pricing, underwriting criteria and program modifications. It will also have the responsibility to certify qualified loan packagers. Finally, it will provide advice to BANK's foundation on matters dealing with neighborhood revitalization efforts and philanthropy.

Example C:

The Committee will act by the agreement of a majority of its members. The meetings of the committee will be convened by a ORGANIZATION representative in the first, third, and fifth years of this agreement, and by a BANK representative in the second and fourth years of this agreement.

Example D:

The Committee will prepare an annual report of the loans under the programs provided for in this agreement.

8. Personnel: Ensuring implementation and accountability

The bank should assign one senior staff member to oversee the lending program, and may designate other staff as necessary to implement the program. It should also ensure that all bank staff understand the agreement and are actively marketing the loan products agreed to.

Example A:

We will assign a senior officer of the bank with overall management responsibility for the program. The officer assigned will have responsibility to ensure the proper coordination of all participating organizational units within the bank.

Example B:

The bank will begin an employee training program, including training front-line loan officers not to discourage applicants on basis of race, gender, clothing, etc.

Example C:

BANK employees shall be encouraged to join

Even the best CRA agreement will not work if the results are not marketed to the targeted community.

Example A:

BANK will make mailings to all customers, the local real estate board, real estate brokers and small businesses in the targeted area to advertise the type of loans available.

A large poster will be placed in the lobby of BANK to advertise what loans are available. BANK will sponsor jointly with the CBO two seminars for members of the real estate board, real estate brokers, and small business owners to inform and educate regarding the types of loans and services BANK will be offering in the targeted area.

Example B:

Three 1/2-page advertisements will be placed in the local paper monthly.

Example C:

BANK officers will be encouraged, through the bank's public relations office, to accept speaking invitations from community groups. They may speak on such topics as the bank's role in the community, how the bank meets community needs, preparation of loan applications, or personal financial planning.

9. The community organization's responsibilities

The community organization which negotiated an agreement should be prepared to also take on responsibilities. Specific responsibilities will vary greatly, depending on the extent of the role the community organization is able to handle.

Example A:

It is expected that ORGANIZATION members will provide assistance with respect to applicant screenings, property screening, and other services consistent with helping to maintain the health and vitality of our borrower. In an effort to minimize the

and neighborhood benefit by designated Loan Packagers.

Example B:

In order to successfully market its loan program, and to promote positive working relationships with community-based organizations, BANK agrees to work with ORGANIZATION in the target areas to promote its lending programs. For the first year of the term of this agreement, ORGANIZATION will serve as a loan screener for BANK products in the target areas; provided that ORGANIZATION will not have any authority to commit BANK to make any loan and ORGANIZATION and its agents will make it clear to potential applicants that it has no such authority. ORGANIZATION will have a training program for individuals and organizations who will perform loan screening activities, and BANK will participate in that program. To help underwrite ORGANIZATION's costs in connection with such activities, BANK will pay ORGANIZATION $10,000 payable in monthly installments during the first year of the term of this agreement.

Example C:

ORGANIZATION agrees that it will do the following: use its good faith efforts to support and promote this agreement and the programs set forth herein; be familiar with the programs set forth herein and explain such programs to those it serves; make recommendations to BANK concerning additional bank products and the marketing of such products; recommend qualified applicants for employment by BANK; post a notice, in the principal office of ORGANIZATION, of available positions at BANK.

Example D:

ORGANIZATION will designate the Bank as a 'Community Responsive Financial Institution' and will promote support of the Bank by direct contact with black clubs, neighborhood councils, religious

of the Community. In return for the Bank's commitment in this understanding, ORGANIZATION will actively encourage businesses, institutions, and individuals to form relationships with the Bank as depositors and investors. The facts about the Bank's adoption and implementation of policies that are in the community's interest will be communicated through public announcements, press releases, and printed materials.

Model Community Lending Program

Outline

- **A. Housing Development Initiative**
  - Individual Home Mortgage Terms
  - Home Improvement Loan Terms
  - Credit Criteria for Qualified Borrowers for Residential Mortgages and Home Improvement Loans
  - Residential Development Project Loan Terms
- **B. Site Option And Pre-development Revolving Fund**
- **C. Economic Development Through Establishment Of Small Business Loan Pool**
- **D. Expansion Of Deposits And Administrative Support For A Community-Based Federally Chartered Credit Union**
- **E. Student Loan Program**
- **F. Loan Counseling Program**
- **G. Marketing Plan**
- **H. Advisory Committee**
- **I. Definitions**

A. HOUSING DEVELOPMENT INITIATIVE

BANK will establish a loan pool of $6,000,000 a year for the next five years, on a cumulative basis, for a total of $30,000,00 for (1) individual home mortgages, (2) home improvement loans, (3) residential development project loans for rental and home ownership, and (4) land/construction related infrastructure loans. Of the $6,000,00 annual allocation, $500,000 will be made available each year for individual residential home mortgage credit to public housing residents, and Section 8 FmHA or RRH housing certificate holders at an interest rate of one percentage point below BANK's Conventional Rate. Of the $6,000,000 annual allocation, an additional residential home mortgage credit to any other qualified borrowers at an interest rate of one percentage point below BANK's Conventional Rate. Any amount of each of these $500,000 portions which is not used during the designated year shall be carried forward and remain available for similar loans at the reduced rate in the following years. BANK will use its best efforts to lend $30,000,000 over the next five years to qualified borrowers in COMMUNITY with priority given to qualified borrowers in the targeted census tracts located in COMMUNITY. Any loan pool monies remaining at the end of the five years will automatically remain available for the aforementioned purpose for three years thereafter.

All loans qualifying under (1) or (2) above shall be for owner-occupied dwellings, and the qualified borrower must assert in the loan application that the sole purpose of the loan is for the acquisition of, addition to or improvement of the owner-occupied dwelling and that 100% of the loan proceeds shall be applied to such purpose. For loans made under (1) or (2) above, the dwelling must be the qualified borrower's principal residence.

Notwithstanding anything in this program description to the contrary, if the percentage of the non-interest accruing, seriously delinquent (90 days or more) or losses on loans and other extensions of credit granted pursuant to the loan pools exceeds one and one-half times the rates experienced by BANK on similar loan products, the underlying credit terms or criteria per each category of loans will be evaluated and modified to correct such problems.

Individual Home Mortgage Terms

The terms offered to individual home mortgage qualified borrowers will be as follows:

1. BANK will waive one-half of one point of application

point of application and origination fees normally charged.

2. A qualified borrower will pay one-third up to a maximum of $100 of the loan application and origination fees upon submission of the application with the balance due upon approval for appraisal.

3. A qualified borrower may pay a minimum net 5% down payment if the borrower obtains mortgage insurance; a net 20% down payment will not require mortgage insurance. BANK will make a good faith effort to provide at least 20% of successful applicants financing of up to 75% of their down payment and closing costs according to criteria determined by BANK, including but not limited to recent credit history and current income, provided that in no event will the total indebtedness exceed the purchase price of the principal residence.

4. BANK will permit qualified borrowers to finance all or a portion of their down payments through other sources, so long as both the qualified borrower (if more than one, all joint obligors) and the other lender agree to subordinate such debt in a manner satisfactory to BANK which provides, inter alia, that the other lender may not foreclose on the principal residence without the written consent of BANK.

5. Special efforts will be made by BANK to assist qualified borrowers to obtain mortgage insurance.

6. In special cases as determined by BANK (taking into consideration such factors as recent credit history and current income), FHA loan to value and housing expense to long term debt ratios will be applied whether or not the mortgage is conventional, or other mortgage insurance is obtained.

7. BANK will extend mortgages to qualified borrowers under Fannie May, Freddie Mac, and conventional programs. BANK is also prepared to offer FHA, VA and Farmer Mac mortgages to qualified borrowers and will consider any other government insured program including but not limited to 203K and FmHA.

8. Qualified appraisers will be mutually agreed upon by BANK and the qualified borrower or, in certain instances, as agreed upon by COMMUNITY-BASED ORGANIZATIONS and BANK. Consent for selection of a qualified appraiser will not be unreasonably withheld.

9. In appropriate cases, BANK will lend against the post-rehab value of the property as certified by a qualified appraiser acceptable to BANK.

10. Of the $6,000,000 annual allocation, $500,000 will be made available each year for individual residential home mortgage credit to public housing residents and Section 8 and FmHA RRH housing certificate holders and an additional $500,000 will be made available each year for individual residential home mortgage credit to any below BANK's Conventional Rate. Except for the two Rate. For each year, BANK agrees to use all of the two $500,000 portions of the loan pool, including any carryovers, at the reduced interest rate before imposing the interest rate of one-quarter of one percentage point below its Conventional Rate provided the qualified borrower meets the criteria of the appropriate $500,000 portion.

11. The interest rate in effect on the date the qualified borrower submits a completed application with all exhibits will remain in effect for 60 days and will be the applicable interest rate. If the interest rate in effect 10 days prior to the expiration of the 60 day period or the closing date, whichever is earlier, is lower than the effective interest rate on the date the completed application was submitted, the lower interest rate will prevail.

12. BANK will consider supporting home ownership projects developed by governmental and other entities that involve lease/purchase agreements. Any money lent for such projects will be credited against the $30,000,000 loan pool.

Home Improvement Loan Terms

The terms offered to home improvement loan applicants will be as follows:

1. BANK will extend loans starting at a minimum of $1,500.

2. Qualified borrower will pay $75 or 100% of BANK's out-of-pocket expenses, whichever is less, prior to loan disbursements.

3. In appropriate cases, BANK will lend against the post-rehab value of the property as certified by a qualified appraiser acceptable to BANK.

4. BANK will offer qualified borrowers an interest rate of one percentage point below its Conventional Rate.

5. In appropriate cases, BANK will refinance a qualified borrower's current permanent mortgage and include the home improvement loan in the refinanced mortgage.

Credit Criteria for Qualified Borrowers for Residential Mortgages and Home Improvement Loans

Credit criteria for mortgage and home improvement loan applicants will be as follows:

1. All traditional sources of income will be considered and accepted by BANK as well as income from government sources, self-employment, part-time employment, alimony and child support.

2. Applicants must demonstrate written verification of three years of income, regardless of source.

3. BANK will consider only the previous three years of the qualified borrower's credit history.

4. Absence of a credit history will not automatically disqualify a qualified borrower when in BANK's opinion the borrower's current income indicates an ability to

record within the previous twelve months prior to the submission of the loan application will not be automatically disqualified due to a prior poor credit history.

6. BANK's credit application will include a section that will allow all applicants to explain unique circumstances regarding credit history. Applicants with a less than a normally acceptable credit history within the three years immediately preceding submission of the loan application will be afforded an opportunity to provide additional explanation on the application.

7. BANK will not charge prepayment penalties.

8. Qualified borrowers may be eligible for a one-time moratorium on payment in cases where serious delinquency (90 days or more) has been caused solely by circumstances beyond the control of the qualified borrower as determined by BANK. To be eligible for such moratorium: (1) the qualified borrower must immediately notify BANK of the circumstances causing delinquency within 90 days of the first billing causing the qualified borrower to be delinquent; (2) the qualified borrower must execute a repayment agreement with BANK providing that after the six month moratorium qualified borrower must repay the amount within 12 months; and (3) unless BANK, in its sole discretion determines that it is not required, qualified borrower must sign a written acknowledgment that such moratorium is contingent upon attendance of loan counseling, and such attendance must be periodically certified by a loan counselor to BANK's satisfaction. An individual qualified borrower is only eligible for one moratorium and if the loan is the obligation of more than one qualified borrower, all joint obligors must execute the repayment agreement. The six-month moratorium commences on the date of the first billing that causes the qualified borrower to be delinquent.

9. Notwithstanding the above credit criteria, if the qualified borrower is seeking financing 100% underwritten or otherwise 100% guaranteed by a governmental or other program that allows more liberal credit criteria, the more liberal credit criteria will be applied.

Residential Development Project Loan Terms

The terms offered for residential development project loans will be as follows:

1. Permanent financing for residential projects will be offered at a fixed interest rate not to exceed one and one-half percentage points above BANK's Prime Rate and for maturities of 15 years or such lesser term as requested by the qualified borrower. Terms of loans will be determined on a case-by-case basis. All loans, irrespective of the length of loan, will be amortized over 25 years with a 15 year balloon. BANK will provide a total of $5,000,000 from the $30,000,000 loan pool for permanent financing

rental/ownership development projects will be on a non-recourse basis where the loan-to-value ratio is equal to or less than 80%. BANK will consider non-recourse loans with loan-to-value ratios up to 90% on a case-by-case basis.

3. Interim/construction loan financing will be offered at up to 80% of the post-construction value, including land, as certified by a mutually agreed upon qualified appraiser. The cost of such appraiser will be borne by the qualified borrower. BANK will consider loans of greater than 80% of post-construction values on a case-by-case basis.

4. Interim/construction loans will be offered at rates not to exceed one and one-half percentage points above BANK's Prime Rate.

5. BANK will not assess any pre-payment penalties on loans.

6. Fees for this loan category shall not exceed one percent.

7. BANK will on a case-by-case basis, consider issuing letters of credit under 501(C)(3) bond issues.

8. BANK will, on a case-by-case basis, consider favorably modifying credit terms to residential developers where opportunities exist for BANK to engage in projects involving, such as, but not limited to, programs involving the local housing authority, tax-free multifamily housing bonds/other governmental and non-government development programs, state and federal tax credits such as Low Income Housing Tax Credits and Neighborhood Assistance Act tax credits which result in financial advantage to BANK and/or where lending and interest rate risks are minimized by loan or deposit guarantees from governmental as well as other sources.

9. BANK will prudently seek to use a portion of the $30,000,000 loan pool to finance infrastructure for low- and moderate-income housing projects at interest rates to be determined on a case-by-case basis, generally not to exceed one and one-half percentage points above BANK's Prime Rate.

B. SITE OPTION AND PRE-DEVELOPMENT REVOLVING FUND

BANK will provide a $250,000 revolving fund for a period of five years. Loans of up to $40,000 each will be made available to not-for-profit agencies and non-profit organizations or public bodies for site options and pre-development expenses such as: legal fees, architectural and engineering services, marketing studies and consultant packaging necessary for the development of low- and moderate-income housing projects. Priority for lending hereunder will be given to projects located in the targeted census tracts. Funds will revolve and be paid back from previously identified federal, state or private sources indicating the loan was not speculative by nature. The interest rate for such loans will be no greater than

further the goals of the CRA.

C. ECONOMIC DEVELOPMENT THROUGH ESTABLISHMENT OF A SMALL BUSINESS LOAN POOL

BANK will establish a loan pool of $3,000,000 a year for five years on a cumulative basis, for a total of at least $15,000,000. BANK will use its best efforts to lend a substantial portion of the $15,000,000 over the next five years to small businesses and for commercial development projects in the targeted census tracts. Loan monies (inclusive of lines of credit) will be made available at one-quarter of one percentage point below the Small Business Loan Interest Rates charged by BANK.

In determining appropriate business loan terms, BANK will, to the extent it is within the realm of financial safety and soundness, make a good faith effort to utilize underwriting loan criteria, inclusive of, but not limited to, the following:

1. Loan maturities of up to 15 years for commercial real estate loans, up to 7 years for non-real estate loans, and, on a case-by-case basis, up to 10 years.
2. Delayed amortization allowing the borrower to pay only interest on the loan for a designated period of time before beginning to make payments on principal.
3. Increased loan to value ratios including permitting borrowers to obtain loans from 80% to 90% of the value of the real estate on a case-by-case basis.
4. Permit borrowers to use as collateral items such as accounts receivable, inventory, equipment, as well as real estate.
5. BANK will offer loans at a minimum of $1,500.

D. EXPANSION OF DEPOSITS AND ADMINISTRATIVE SUPPORT FOR A COMMUNITY-BASED FEDERALLY CHARTERED CREDIT UNION

To further meet the credit needs of the low- and moderate-income community and advance the self-help, community development capability of FEDERAL CREDIT UNION, BANK will deposit $100,000 with FEDERAL CREDIT UNION for five years at an interest rate of 3%, or the rate paid to other large time depositors or the rate paid to individual depositors, whichever is greater, provided the following conditions are met continuously and uninterrupted throughout the term of the deposit.

1. The CREDIT UNION will provide evidence to BANK that the CREDIT UNION was solvent for the two fiscal years immediately preceding the deposit.
2. Annual audits will be conducted by independent public accountants.
3. The CREDIT UNION will provide proof that it is fully insured by the National Credit Union Association (NCUA deposit insurance fund) or similar federal deposit insurance fund.
4. The NCUA deposit insurance fund is financially

budget loan counseling duties attendant to lending the $100,000 deposited by BANK, and helping to promote and package consumer, business and mortgage loan applications for BANK that are beyond the scope of CREDIT UNION's present lending and operational capabilities.

E. STUDENT LOAN PROGRAM

In order to meet the low- and moderate-income community's education loan needs, BANK will establish an aggregate $4,000,000 student loan fund for five years for students from low- and moderate-income families residing in the targeted census tracts.

BANK will continue to participate in the Guaranteed Student Loan Fund. As long as it does not preclude BANK from selling such loans in the secondary market or affect the guarantee provided by the appropriate governmental entity, BANK will not require co-signers or conduct credit checks.

BANK will aggressively market the Guaranteed Student Loan Fund program with high school counselors and with finance officers of accredited colleges, business and vo-tech institutions and other accredited educational institutions throughout the community.

BANK will make every effort to lend 70% of the $4,000,000 student loan fund to students in the targeted census tracts enrolling in an educational institution for the first time and 30% to students already enrolled in such educational institutions.

F. LOAN COUNSELING PROGRAM

BANK will provide an annual grant in the amount of $27,500 for each of the next five years towards the cost of providing HUD certified loan counselors for a community-based loan counseling program. These monies will be used to support the salaries and operations of loan counselors.

Loan counselors will be employed by and under the supervision of one or more community-based organizations located in the community. The BANK's advisory committee will recommend the community agency or agencies to receive the funding for the loan counseling program with consent of BANK. BANK will not unreasonably withhold its consent. The community agency or agencies may be changed with the mutual consents of the advisory committee and the BANK.

BANK will assist in the training of the loan counselors with respect to such things as application procedures, loan terms, underwriting criteria and other relevant matters. Quarterly reporting will be required of loan counselors describing counseling efforts in detail satisfactory to BANK. BANK shall review the success of counseling on an annual basis to ascertain whether addition of more counselors is justifiable based upon evaluation criteria developed by the BANK's advisory

BANK will develop and implement a marketing plan for the purpose of carrying out the terms and achieving the goals of the lending programs described above. The principal objectives of the marketing plan will be to carry out the lending goals for the Housing Development Initiative and other related BANK funded housing programs, other small business and commercial lending and any loan counseling program as described in Section F. The primary focus of the marketing plan will be the targeted census tracts.

The marketing plan will include, but not be limited to:

1. Development of communication materials identifying BANK and relevant community-based organizations and governmental bodies and describing lending services and credit terms for distribution to:
a. Residents of relevant low-and moderate-income communities.
b. Community-based organizations.
c. Residential and commercial developers.
d. Real estate brokers.
e. Government agencies and departments.
f. Religious organizations and institutions.
2. Periodic advertisement on radio and/or TV stations at standard rates with substantial listenership and viewing audience in BANK's low- and moderate-income communities.
3. Periodic advertisements in print media such as general circulation newspapers, community and religious newsletters, bus billboards, retail circulars and other newsletters with substantial subscribership in low- and moderate-income communities.
4. Development of specialized letters and flyers for distribution to residential and commercial developers and real estate brokers who have a high volume of business in low- and moderate-income communities.
5. Distribution of brochures and other materials by tellers and other BANK personnel at all branches and loan centers in the vicinity of low- and moderate-income communities.
6. Printed materials will be made available in Spanish, as appropriate.
7. The marketing plan will be developed by BANK in cooperation with its advisory committee.
8. BANK will absorb its costs associated with the marketing plan.

H. ADVISORY COMMITTEE

An advisory committee will be established to review and monitor the implementation of the provisions of this community lending program. The committee will also serve as a forum for suggestions and/or complaints for improving the program.

BANK will provide a quarterly report to the advisory committee of the loans made pursuant to the terms of this low-and moderate-income persons in the targeted census tracts and will be comprised of four (4) members appointed by community groups and three (3) members appointed by BANK including the designated officer charged with carrying out the program. The advisory committee will meet monthly during the first year and at least quarterly thereafter. The advisory committee's duties and responsibilities will include but not be limited to:

1. Review the BANK's performance.
2. Review, at the discretion of the Committee, of individual loan approvals and denials.
a. BANK will make available a "confidentiality waiver form" to borrowers for purposes of allowing the advisory committee to review at its discretion credit aspects of the application and BANK's decision. Advisory committee members must execute a confidentiality agreement as well.
b. At the advisory committee meetings, BANK will provide the advisory committee with a report prepared by BANK which sets forth, as to each loan category under this program, the following data related to loan activities in the targeted census tracts for the preceding period:
(1) The number of loan applications received including referrals from each targeted census tract.
(2) The number of applications approved and denied in each of the targeted census tracts.
(3) The number of applications approved and the total amount funded by both loan category and targeted census tract.
(4) As to all applications denied, the principal reasons for denial.
(5) BANK's loan repayment experience.
(6) Any additional information reasonably requested by the advisory committee.
3. Review the performance and effectiveness of the Loan Counseling Program.
4. Review the progress of residential and commercial development loan applications and of projects for which financing has been approved.

I. DEFINITIONS

1. Qualified Borrower

A "qualified borrower" for a residential mortgage loan will be defined as: one or more individual members of a household who resides or will reside in COMMUNITY and is seeking to purchase a residential property as a principal residence as defined in the Internal Revenue Code of 1986, located within the targeted census tracts whose family income does not exceed 125% of median family income for relevant family size in the relevant community, or as certified as "low-income" by the local housing authority.

A "qualified borrower" for residential development project lending is defined as: (1) A not-for-profit entity

(2) an individual or not-for-profit entity participating in a partnership or joint venture with an eligible not-for-profit developer or community-based organization seeking credit for the development of a residential development project substantially located or to be substantially located within the targeted census tracts. Qualified borrowers must pledge to the not-for-profit developer in writing that the housing to be provided by the development project will be affordable to low- and moderate-income individuals and families for between 7 and 10 years after the completion of the project. The commitment on the number of years will be determined by the scope of the project. Qualified borrowers must also agree to periodic monitoring by the not-for-profit developer during the relevant period to ensure that the housing developed by the project remains affordable to low- and moderate-income individuals and families.

A "qualified borrower" for a home improvement loan is defined as: one or more individual members of a household who resides in the targeted census tracts and owns and resides in the property to be repaired and/or improved.

A "qualified borrower" for small business loans will be defined as: a newly created or existing independently owned and operated business located within the targeted census tracts generally having 50 or fewer employees, $5,000,000 or less in annual gross sales and financing requirements of $1,000,000 or less net of real estate secured loans. Priority will be given to small businesses as defined above with 20 or fewer employees.

2. Partnership

"Partnership" shall be defined as: a relationship between one or more not-for-profit entities and one or more for-profit entities in which the not-for-profit entity materially participates in major aspects of the project or joint venture such as, but not limited to: development, financial, budget and management matters. The partnership agreement shall be in writing and shall be for the purpose of development of residential ownership or rental properties for which the purchase price for individual units and/or for which the monthly rental amount shall be affordable to low-or moderate-income individuals and families.

3. Not-for-Profit

The term "not-for-profit" shall be defined as: 1) a private 501(c)(3) tax-exempt entity with a commitment to the development of residential projects for sale or rent to low-or moderate-income individuals and families, and 2) a public tax-exempt or governmental entity. However, all proposals for residential development loans by partnerships comprised of a for-profit and a public tax-exempt or governmental entity will be approved by the BANK's advisory committee in order for the loan to be

The term "community-based organization" shall be defined as: a 501(c)(3) tax-exempt organization whose primary purpose is to advocate for and/or generate housing and/or economic development in low- and moderate-income communities and whose membership and/or board of directors is substantially comprised of persons of low- and moderate-income.

5. Joint Venture

The term "joint venture" shall be defined as: any project undertaken by a partnership, as defined above.

6. Conventional Rate

The term "Conventional Rate" means the interest rate offered from time-to-time by BANK to the general public for a loan which is identical in length, purpose and nature to the loan being offered under this program. Interest rates which may be offered by BANK under special programs or which may be offered to a select group of BANK customers from time-to-time shall not be considered the conventional rate.

7. Prime Rate

The term "Prime Rate" means the published BANK prime rate of interest, as it may be changed from time-to-time.

A Bank's Application

7

Not all negotiations result in a lending agreement. If your group decides it cannot reach an acceptable agreement with the bank, you must consider next steps. Appropriate next steps depend on whether the bank has a current CRA-related regulatory application.

If the bank is applying for regulatory approval for an activity covered by CRA, the only recourse to a failed negotiation is to file a formal challenge to the bank's application. A protest must be filed (i.e., must be in the hands of the appropriate regulator) before the end of the comment period. In some cases, agencies will allow an extension of time to complete documentation if the protest is filed within the original comment period. Do not assume you have any extra time without explicit information from the regulatory agency.

Each of the four regulatory agencies follows different administrative procedures in considering a CRA protest. Because of this, it is critical that you know the specific procedures of the agency you are dealing with. *The Citizens Guide to CRA*, issued by the Federal Financial Institutions Examination Council (ordering information in Appendix D), provides detailed procedures for each agency. In addition, make sure to verify procedures with the regulatory agency considering the bank application.

The protest must include complete documentation of your group's contention that the bank is not complying with the Community Reinvestment Act, and a request that the application be denied on that basis. This documentation should include the research you have performed related to the community's credit needs and the details of the inadequacy of the lending performance record of the bank. It should also include the history of your group's (and others, if relevant) communications with the bank, and your unsuccessful attempts to negotiate a lending agreement. If you wish to present further testimony, your protest letter should include a request for a hearing.

Because it will take some time to prepare this protest, negotiators must be aware of the deadlines for the comment period, and make sure that a decision whether to file a protest is made with enough time to complete the work required. Often work on the protest takes place simultaneously with the negotiations.

In most cases, it is a good idea to enlist some outside legal and/or technical assistance in preparing your challenge. This could be from an organization with experience in assisting in CRA challenges, or outside legal help from a legal assistance center or other

review procedure varies between regulatory agencies. If a hearing is scheduled, it is important to prepare seriously to present your case to the regulators. Do not simply restate the information in your protest letter. If you are able to do additional research before the hearing that strengthens your case, present that information. If possible, bring in individuals who were affected by bank policies or actions, such as creditworthy individuals who were denied loans. Bring as many people to the hearing as possible, both to testify and to observe. You should also make sure that the agency makes a transcript of the hearing, and that you are able to obtain or review a copy.

Either in addition to or instead of a public hearing, the regulatory agency may encourage or facilitate a private meeting with the organization and the institution to further clarify the issues raised in the protest and the bank's response.

The regulatory agency will ultimately take one of three actions on a bank's application: approval, approval with conditions, or denial. An application which is approved with conditions will specify changes in lending policies or programs to strengthen the bank's community reinvestment performance. Sometimes these conditions are similar to a CRA agreement proposed by the community group.

Filing a protest and following up the process requires an intensive effort by your organization over a period of weeks or months. It is important that your organization be prepared to devote the time and seek the assistance necessary to complete the process before deciding to take the protest action.

If your negotiations with the bank are unsuccessful or not productive, but they are taking place outside of a CRA challenge opportunity, you have a different set of options. The actions you take should depend on your specific goals and the facts the bank is not meeting its CRA responsibility, and perhaps including your attempts to meet with the bank and develop new programs.

You may want to go back and do some additional research to document the bank's lack of attention to community credit needs. If the research strengthens your case, your organization may want to reopen the discussions with the financial institution at a later time. Be especially on the lookout for any new CRA-related application opportunities involving this bank.

You may also want to broaden the discussion by letting the community know, through the media or other means, that the discussions were not fruitful, and by publicizing the lending issues you previously documented. You may decide that more confrontational strategies are appropriate.

All of these options involve questions of strategy. How your organization handles a situation in which you are unable to reach an agreement with the financial institution depends on the strength of your case that the bank is not living up to its responsibilities, the type of long term relationship the organization would like to have with the bank, and the other goals of your organizing effort.

Making The Agreement Work

8

Reaching a lending agreement with a local financial institution doesn't mean your hard work is over. Making the agreement work for your community will require an ongoing effort to monitor and refine the lending program. It may also lead you to look for other resources to strengthen your reinvestment programs.

Monitoring the program

No matter how good your new lending program is, it is only a piece of paper until its provisions are implemented. You will not only want to monitor the implementation and ensure that each party to the agreement lives up to its obligations, but you will also want to be able to make necessary modifications in the program as it develops.

As discussed in previous chapters, a good monitoring process should be included in the lending agreement negotiations. This should include the establishment of a monitoring committee, including representatives of all the parties involved in operating the program, and those (if different) involved in negotiating the program. There should be roughly equal numbers of voting members from the financial institution and the community. The frequency of the committee's meetings (monthly or bimonthly, or quarterly) should be specified in the agreement. The committee should set achievable goals for program performance. A report should then be provided by each operating entity prior to each meeting on the activities performed during the period and how they meet or fail to meet the goals. For example, if a community group is marketing the program, it should provide a report on personal contacts made, announcements made at meetings, and media contacts. If a nonprofit is doing loan packaging, it should report on the status of each pending client. The financial institution should discuss loans received, pending, approved and denied, and should provide reasons for denials.

One of the most important functions of the monitoring committee is to solve problems as they arise and to make changes in the program if necessary. Even the best-designed lending program will need modifications as it is implemented. Problems may arise with respect to different styles of business (for example, too much documentation required for very small loans); different interpretations of program responsibilities (no one is responsible for marketing); or problems in the program design itself, such as too small a target area. As the monitoring group works together, lines of communication should be established to solve problems such as those that arise and modify the

As you implement and monitor your lending agreement, you may identify additional next steps which would improve the success of your lending program, provide new types of reinvestment, or provide further incentives for reinvestment by your local financial institutions.

For example, you may want to use the example of your successful efforts to push your municipality or your state to deposit its funds only in banks with Outstanding or Satisfactory CRA ratings. You may want to push private entities (corporations, organizations, churches, even individuals) to do the same. You may find it important to push for changes in government community development loan or subsidy programs to make them more usable by local financial institutions or your community's residents and organizations.

Increased experience with community development lending may demonstrate to bank managers the important role played by public subsidy programs for affordable housing or certain types of economic development. You may be able to enlist the bank as a new ally in advocating for increasing funds to effective subsidy programs.

In a number of cities and states, governments have linked the deposit of public funds in financial institutions with specific lending programs of the institution or its overall lending record. These programs allow public deposit funds to be used as leverage to encourage community reinvestment. If your local government has such a program, utilize it for targeted lending programs for your community. If no such program exists in your area, you may wish to push for its establishment.

Finally, be aware of efforts to strengthen or to curtail CRA at the national level. The savings and loan bailout and restructuring of 1989 provided an opportunity to strengthen some provisions of CRA. At the same time, the banking lobby has been supporting efforts to curtail, if not destroy, the critical to all future legislative efforts. Maintain contact with some or all of the national resource organizations listed in Appendix D to influence and participate in upcoming legislative efforts.

Community Reinvestment Act

12 USC 2901; Title VII of Pub.L. 95-128, 91 Stat. 1147 (October 12, 1977)

Section
801 Short title
802 Congressional findings and statement of purpose
803 Definitions
804 Financial institutions; evaluation
805 Report to Congress
806 Regulations

Section 801–Short Title

This title may be cited as the "Community Reinvestment Act of 1977".

Section 802—Congressional Findings and Statement of Purpose

(a) The Congress finds that—

(1) regulated financial institutions are required by law to demonstrate that their deposit facilities serve the convenience and needs of the communities in which they are chartered to do business;

(2) the convenience and needs of communities include the need for credit services as well as deposit services; and

(3) regulated financial institutions have continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered.

(b) It is the purpose of this title to require each appropriate Federal financial supervisory agency to use its authority when examining financial institutions, to encourage such institutions to help meet the credit needs of the local communities in which they are chartered consistent with the safe and sound operation of such institutions.

Section 803—Definitions

For the purposes of this title—

(1) the term "appropriate Federal financial supervisory agency" means—

(A) the Comptroller of the Currency with respect to national banks;

(B) the Board of Governors of the Federal Reserve System with respect to State chartered banks which are members of the Federal Reserve System and bank holding companies;

(C) the Federal Deposit Insurance Corporation with respect to the State chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Corporation; and

(D) the Federal Home Loan Bank Board with respect to institutions the deposits of which are insured by the Federal Savings and Loan Insurance Corporation and to savings and loan holding companies;

(2) the term "regulated financial institution" means an insured bank as defined in section 3 of the Federal Deposit Insurance Act or an insured institution as defined in section 401 of the National Housing Act; and

(3) the term "application for a deposit facility" means an application to the appropriate Federal financial supervisory agency otherwise required under Federal law or regulations thereunder for—

(A) a charter for a national bank or Federal savings and loan association;

(B) deposit insurance in connection with a newly chartered institution, other than a bank, with the ability to accept deposits of a regulated financial institution;

(D) the relocation of the home office or a branch office of a regulated financial institution;

(E) the merger or consolidation with, or the acquisition of the assets, or the assumption of the liabilities of a regulated financial institution requiring approval under section 18(c) of the Federal Deposit Insurance Act or under regulations issued under the authority of title IV of the National Housing Act; or

(F) the acquisition of shares in, or the assets of, a regulated financial institution requiring approval under section 3 of the Bank Holding Company Act of 1956 or section 408(e) of the National Housing Act.

(4) A financial institution whose business predominately consists of serving the needs of military personnel who are not located within a defined geographic area may define its "entire community" to include its entire deposit customer base without regard to geographic proximity.

Section 804—Financial Institutions; Evaluation

In connection with its examination of a financial institution, the appropriate Federal financial supervisory agency shall—

(1) assess the 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 such institution; and

(2) take such record into account in its evaluation of an application for a deposit facility by such institution.

Section 805—Report to Congress

Each appropriate Federal financial supervisory agency shall include in its annual report to the Congress a section outlining the actions it has taken to carry out its responsibilities under this title.

Section 806—Regulations

Regulations to carry out the purposes of this title shall be published by each appropriate Federal financial supervisory agency, and shall take effect no later than 390 days after the date of enactment of this title.

Section 807Q—Written Evaluations

(a) Required-

(1) In General-Upon the conclusion of each examination of an insured depository institution under section 804, the appropriate Federal depository institutions regulatory agency shall prepare a written evaluation of the institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods.

(2) Public and Confidential Sections-Each written evaluation required under paragraph (1) shall have a public section and a confidential section.

(b) Public Section of Report-

(1) Findings and Conclusions-The public section of the written evaluation shall-

(A) State the appropriate Federal depository institutions regulatory agency's conclusions for each assessment factor identified in the regulations prescribed by the Federal depository institutions regulatory agencies to implement this Act;

(B) discuss the facts supporting such conclusions; and

(C) contain the institution's rating and a statement describing the basis for the rating.

needs"

(B) "Satisfactory record of meeting community credit needs"

(C) "Needs to improve record of meeting community credit needs"

(D) "Substantial noncompliance in meeting community credit needs" Such ratings shall be disclosed to the public on and after July 1, 1990.

(c) Confidential Section of Report-

(1) Privacy of Named Individuals-The confidential section of the written evaluation shall contain all references that identify any customer of the institution, any employee or officer of the institution, or any person or organization that has provided information in confidence to a Federal or State depository institutions regulatory agency.

(2) Topics not Suitable for Disclosure-The confidential section shall also contain any statements obtained or made by the appropriate Federal depository institutions regulatory agency in the course of an examination which, in the judgment of the agency, are too sensitive or speculative in nature to disclose to the institution or the public.

(3) Disclosure to Depository Institution-The confidential section may be disclosed, in whole or part, to the institution, if the appropriate Federal depository institutions regulatory agency determines that such disclosure will promote the objectives of this Act. However, disclosure under this paragraph shall not identify a person or organization that has provided information in confidence to a Federal or State depository institutions regulatory agency.

Appendix B:

Regulation BB Community Reinvestment

12 CFR 228; effective November 6, 1978

Section 228.1—Authority

The Board of Governors of the Federal Reserve System issues this part* to implement the Community Reinvestment Act (12 USC 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 USC 325), to conduct examinations of bank holding companies and their subsidiaries (12 USC 1844), and to consider applications for domestic branches by state member banks (12 USC 321), for federal deposit insurance in connection with applications for membership in the Federal Reserve System by state banks (12 USC 321, 1814, 1816), for merger in which the resulting bank would be a state member bank (12 USC 1828), and for formation of, acquisitions of banks, by, and mergers of, bank holding companies (12 USC 1842).

Section 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

(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 including 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) Except as provided in paragraph (c) of this section, 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 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.

(c) A state member bank whose business predominantly consists of serving persons who are active duty or retired military personnel or their dependents and who are located outside of its local community or communities, may delineate a "military community" for those customers, in addition to its local community or communities. Provisions of this part concerning local communities shall also apply to military communities, except that military communities shall be delineated by a written description rather than a map.

Section 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 one- to four-dwelling units, residential loans for five-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

special credit-related programs, help to meet community

(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.

SECTION 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.

Section 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 (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).
- 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.

Section 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

(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 USC 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 USC 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.

Appendix C:

Joint Policy Statement on CRA

Statement of the Federal Financial Supervisory Agencies Regarding the Community Reinvestment Act (March 19, 1989)

Introduction

In light of the significant developments that have occurred in the financial institutions industry since enactment of the Community Reinvestment Act of 1977 ("CRA"), the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Federal Home Loan Bank Board ("the Agencies") have revised the 1980 Community Reinvestment Act Information Statement. The revisions in this Joint Statement are intended to take advantage of the experience the Agencies

Statement provides guidance regarding the types of policies and procedures that the Agencies believe financial institutions should have in place in order to fulfill their responsibilities under the CRA on an ongoing basis and the procedures the Agencies will use during the application process to review an institution's CRA compliance and performance.

Under the CRA, the Agencies are required, when considering certain applications involving a federally insured financial institution ("financial institution"), to take into account the institution's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods. Given this responsibility, the Agencies want to assure that potential applicants, and those who may wish to comment on an applicant's CRA record, know what is expected of a financial institution under the CRA and of participants during the application process. The Agencies believe the clarification provided in this Statement will help applicants and others who wish to comment on applications to provide promptly the information necessary to permit the Agencies to address CRA issues in a timely fashion in accordance with the schedules required under relevant federal statutes and regulations. The Agencies wish to emphasize their belief that the goals of the CRA are best accomplished when financial institutions make meeting their responsibilities under the statute a part of their routine management and operational structure. Thus, the Agencies expect applicants to have addressed their responsibilities under the CRA well before they submit an application.

Background

The CRA was enacted in 1977 against a backdrop of concern over unfair treatment of prospective borrowers by financial institutions and over unwarranted geographic differences in their lending patterns. In the CRA, Congress reaffirmed that every financial institution has a continuing and affirmative obligation consistent with its safe and sound operation to help meet the credit needs of its entire community, including low- and moderate-income neighborhoods.

The CRA states that its purpose is to require each federal financial supervisory agency to use its authority when conducting examinations to encourage the financial institutions it supervises to help meet those needs. To this end, the Community Reinvestment Act provides:

In connection with its examination of a financial institution, the appropriate...agency shall—

(1) assess the 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

(2) take such record into account in its evaluation of an application...by such institution. 12 U.S.C. $ 2903. Simply stated, the CRA and the implementing regulations place upon all financial institutions, whether wholesale or retail, urban or rural, an affirmative responsibility to treat the credit needs of low- and moderate-income members of their communities as they would any other market for services that the institution has decided to serve. As with any other targeted market, financial institutions are expected to ascertain credit needs and demonstrate their response to those needs.

The Agencies believe that the CRA intends financial institutions to help meet the credit needs of their communities in a positive, ongoing way that recognizes the institution's assessment of its relevant market and is consistent with the safe

governments. The CRA was not intended to limit an institution's discretion to develop the types of products and services that it believes are best suited to its expertise and business objectives and to the needs of its particular community, as long as the institution Us program is consistent with the objectives of the CRA. Nor is it the purpose of this Statement to establish specific lending requirements or programs for financial institutions subject to the CRA.

This Statement provides guidance, in part, by describing the types of activities that the Agencies have found fulfill a financial institution's responsibilities under the CRA. Because the needs of communities vary, the Agencies recognize that the examples outlined in this Statement will not be appropriate for every institution or for every community.

Guidelines for Developing an Effective CRA Process

Because the credit needs of individual communities differ, the Agencies will consider the process by which a financial institution defines the community it serves, determines its credit needs, including its low- and moderate-income areas, and takes steps to help meet those needs through appropriate and prudent lending. The Agencies believe that appropriate consideration should be given to an institution that makes ongoing efforts to ascertain the needs of its entire community, develops products and services that are responsive to those needs, and markets those products and services throughout the community. An active program of management involvement, policy oversight, and regular review is most likely to assure that the products and services the institution chooses to offer will meet community credit needs, be adjusted when those needs change, and be available to all segments of the community.

The experience of the Agencies indicates that an effective CRA process must include methods to ascertain community needs on an ongoing basis through outreach efforts to local governments, businesses, and community members and organizations. This ascertainment effort should include a system that both facilitates dialogue with these individuals and groups and enables them to communicate their concerns to an officer of the financial institution with CRA responsibilities. To be effective, the process must include methods to incorporate findings regarding community credit needs into the development of products and services that the institution decides to offer to help meet these needs.

The CRA plan should include marketing and advertising programs for lending products and services that are responsive to the needs of the community and that will inform and stimulate awareness of those products and services throughout the community, including low- and moderate-income areas. The plan should also include periodic analysis of the disposition of loan applications to ensure that potential borrowers are treated in a fair and non-discriminatory manner.

The duty to coordinate and monitor the CRA process should be assigned to a senior officer or a committee charged with the responsibility to report periodically to the board of directors about the institution's CRA efforts, performance and areas for improvement, where appropriate. An employee training program should be established. This program should contain information about those policies of the institution designed to help meet community credit needs, including the needs of low- and moderate-income areas and small businesses. Procedures should be implemented to assure that files are maintained, as required by agency regulations, for purposes of receiving public

steps necessary to help meet its community's credit needs is the responsibility of the entire organization, beginning with its board of directors and continuing through its line management. Once a financial institution has established an effective CRA process, it must assure that its CRA statement accurately reflects the types of lending and other services that it will offer to the community. This statement must be reviewed at least annually to ensure its accuracy. The services that the institution chooses to offer should be clearly articulated, reasonably related to community needs, and distributed in a fair and nondiscriminatory manner in keeping with an institution's general approach to its business. A financial institution need not offer every financial service in order to meet its CRA responsibilities; however, the Agencies expect that institutions will offer the types of credit listed in their CRA statement throughout their delineated communities.

Specific Elements of an Effective CRA Process

Within the general framework discussed above, institutions have substantial leeway in developing specific policies and programs to meet their CRA responsibilities. The actual steps taken by an institution will of necessity depend upon a number of factors, including the size of the institution, its business strategy and objectives, and the size, nature and needs of the community involved. For example, the specific steps taken by a small rural institution to meet its CRA responsibilities may be quite different from those required of a major metropolitan institution.

Based upon the experience of the Agencies, institutions with the most effective programs for meeting their CRA responsibilities and for assuring that their services reach low- and moderate-income segments of the community will have taken many of the following steps:

- implemented policies, including the use of more flexible lending criteria, consistent with safe and sound practices, to provide the types of loans and services described in the institution's CRA statement on a more widespread basis;
- increased efforts to make loans to help meet identified credit needs within the community, such as those for home mortgages, home improvement and small business. This may include participation in various government-insured lending programs, such as FHA-insured or VA-guaranteed mortgage loans and SBA loans, and participation in other types of lending programs, such as high-loan-to-value-ratio conventional mortgage loans with private mortgage insurance;
- implemented and advertised the availability of services of benefit to low- and moderate-income persons, such as cashing government checks or offering low-cost checking accounts;
- created and implemented advertising and marketing efforts through, for example, newspapers, radio, television and brochures designed to inform low- and moderate-income groups (in languages other than English, where appropriate) of available loan and deposit services; in the case of members of the Federal Home Loan Bank System, participated actively in the FHLBB Community Investment Fund program.

Finally, to enhance CRA performance, some financial institutions have chosen to establish special or pilot lending programs earmarked for low- and moderate-income neighborhoods, consistent with safe and sound lending practices. While the Agencies support such activity, the scope of any such program is properly addressed by the financial institution itself, taking into account its own expertise and financial capabilities. This is particularly true of

and other similar factors. The Agencies will continue to consider favorably financial-institution leadership in concerted efforts to improve low- and moderate-income areas in the community and participation by financial institutions in public and private partnerships to promote economic and community development efforts.

The examples described above illustrate specific steps that have been taken, in particular by larger financial organizations operating in urban communities, to help meet the credit needs of all segments of those communities. Smaller financial organizations operating in primarily rural communities may nonetheless find some of these examples helpful in designing CRA policies that would meet the needs of their communities.

Expanded CRA Statement

Financial institutions are currently required by agency regulations to prepare a CRA statement describing the community served by the institution and listing the types of credit offered by the institution to the community and encouraged to describe their CRA efforts in this statement. This statement must be reviewed by the board of directors of the institution at least on an annual basis. As noted above, an effective CRA process should also include management review and oversight of the institution's policies and performance on a regular basis.

The Agencies believe that it would be especially useful for a financial institution, in connection with the preparation and periodic review of its CRA statement, to expand the CRA statement to include a description of the institution's CRA performance. The CRA regulations of the Agencies currently encourage financial institutions to incorporate this type of description in their CRA statements. This description includes the institution's efforts to ascertain the credit needs of its community and to communicate with members of the community regarding those needs, and the steps taken by the institution, including through special credit-related programs, to help meet the community's credit needs. The CRA statement also provides a readily available vehicle for financial institutions to describe the marketing and advertising programs used by the institution to inform the community of the institution' services, and any other steps, such as those outlined in this Statement, that have been taken by the institution to implement its CRA policies. The institution may also find it useful to include a summary of the results of its internal CRA review and a summary of the documentation collected by the institution regarding is CRA performance.

An expanded CRA statement along the lines suggested in existing agency regulations can be a particularly effective part of the institution's outreach efforts to the community. This type of statement would also focus, on an ongoing basis, the attention of both the institution's management and the public on the financial institution's efforts to meet its responsibilities under the CRA and on any areas identified by the institution for improvement. The Agencies also believe that an expanded CRA statement would present a suitable framework outside the applications process for public comment regarding an institution's CRA record. Under existing rules, public comments received by an institution regarding its CRA performance must be maintained in a public file with the institution's CRA statement. These public comments provide the institution with an opportunity to identify areas of public concern regarding its CRA performance and to consider any steps that the institution may find appropriate to address these concerns. The Agencies strongly encourage financial institutions to expand their CRA statement to include a description of the institution's CRA performance in connection with the institution's review of its CRA record. The Federal Reserve Board and the FHLBB also strongly encourage holding companies, as part of the system-wide review and oversight by the holding company of the CRA performance of its subsidiary financial institutions, to ensure that their CRA statements are expanded in this way. The Agencies recognize that the CRA statement would vary in complexity and scope depending on the size, resources, and location of the institution.

Communication in Advance of the Applications Process

Just as financial institutions are expected to communicate with their local communities on an ongoing basis regarding credit needs, community organizations and other members of the public are strongly encouraged to bring comments regarding an institution's CRA performance to the attention of the institution and the appropriate supervisory agency at the earliest possible time. Interested persons are encouraged not to wait to present their comments through a protest to an application. Prompt submission of comments regarding an institution's CRA record provides the institution and examiners with a timely opportunity to evaluate the matter and permits the institution to correct any deficiencies—an opportunity that may not be as effectively utilized under the time constraints of the applications process. The CRA regulations of the Agencies establish a comment procedure at the financial institution for this purpose, and the Agencies strongly encourage use of this process. The Agencies expect that financial institutions will investigate promptly all complaints and place a high priority on correcting any deficiencies.

The Agencies will consider any comments submitted to the institution through this comment procedure, as well as any action or response that the institution deems appropriate, in the evaluation of the institution's CRA performance. In this regard, when considering public comments received during the applications process concerning the CRA record of a particular institution, the Agencies will take into account whether the institution has provided to the public an expanded CRA statement that, as discussed above, describes the efforts made by the institution to help meet the credit needs of its community. The Agencies may also consider whether the commenter has submitted comments to the institution in response to the institution's CRA statement outside of the applications process. However, comments will be carefully weighed regardless of their timing, as long as submitted within the periods specified in the rules of the appropriate reviewing Agency.

Role of CRA Examinations

In acting upon applications covered by the CRA, the appropriate reviewing Agency will consider the CRA record of the relevant financial institutions as reflected in examination reports (from the relevant federal or state supervisory agencies), the information presented by any commenters, the response by the applicant, and the agency's own analysis.

As indicated earlier, the CRA requires the Agencies to assess the CRA record of institutions under their supervision during the examination process and to take that record into account in evaluating certain applications. Therefore, the CRA record of the institution, as reflected in its examination reports, will be given great weight in the applications process. In some cases,

the convenience and needs of the community that must be conducted when processing certain types of applications under federal statutes governing financial institutions. The documentation of that record must be sufficient to support the conclusions of the reviewing Agency. A favorable CRA examination from a supervisory agency is an important, and often controlling, factor in the consideration of an institution's CRA record. It is not conclusive evidence, however, in the face of significant and supported allegations from a commenter. This is especially the case when the examination is not recent or the particular issue raised in the application proceeding was not addressed in the examination. In these instances, applicants should submit sufficient data upon which the reviewing Agency may base a decision regarding the institution's record of serving the convenience and needs of its community, and should also respond to specific substantive issues raised by the commenters or the reviewing Agency.

Documentation of CRA Performance

The agencies expect financial institutions to maintain reasonable documentation of the activities, such as those outlined in this Statement, that have been undertaken by the institution to implement the institution's CRA policies. The appropriate scope and detail of this documentation must be determined by each financial institution and should accurately reflect the institution's CRA policies and performance.

If a substantive CRA issue is raised in the applications process that has not been addressed in the institution's examination reports, the applicant should be prepared to provide the reviewing Agency with information necessary to evaluate the issue. This information may include such items as a description of the CRA policies that have been established, any procedures for ongoing review of these policies, and the types of services offered by the institution to help meet community credit needs. In addition, a description of the resources devoted to such services and the extent to which they are distributed throughout the community has proven to be helpful to the consideration of the issues.

An applicant that has established the type of CRA policies outlined in the applicable CRA regulations and this Statement, and that is able to document that it is performing in accordance with these policies, can expect a favorable finding on the CRA component of the convenience and needs factor under the applicable federal statute governing the transaction. The applicant can also expect timely action on the application within the reviewing agency's processing guidelines (assuming that financial and other factors are favorable).

Where the examination or application record fails to show that the institution has instituted these types of policies, however, it will be necessary for the reviewing Agency to develop the information required to evaluate the institution's record of helping to meet community credit needs. A poorly documented record may prolong the application process in order for the reviewing Agency to collect the information needed for its decision.

Where the record shows disparities in lending that do not appear to be attributable to safety and soundness considerations or to factors beyond an institution's control, the reviewing Agency will inquire into the institution's efforts to ascertain the community's needs, to communicate with all areas of its community, and to advertise and market its services throughout its delineated community. The reviewing Agency will also consider all available information to determine whether any obligations under the CRA, the reviewing Agency, after weighing all other factors, may deny the application.

Role of Commitments for Future Action

The Agencies believe that applicants should address their CRA responsibilities and have the necessary policies in place and working well before they file an application. In fulfilling their responsibilities under the CRA, however, financial institutions may decide to initiate programs for future action as a means of assuring a strong CRA record or resolving CRA issues. Commitments for future action are not viewed as part of the CRA record of performance of the financial institution, but may be given weight as an indicator of potential for improvement in the institution's performance. Commitments for such improvement can be used to address specific problems in an otherwise satisfactory record. Commitments may also be appropriate in addressing CRA performance in the context of the acquisition of a troubled financial institution. In some cases, these commitments are important to the conclusion that convenience and needs considerations are consistent with approval of the application. In general, commitments made in the applications process cannot be used to overcome a seriously deficient record of CRA performance. The Agencies may, where appropriate, require financial institutions to take specific actions designed to improve CRA performance by granting conditional approval of an application. In such cases, approval granted by an agency generally becomes effective or final only after confirming that the financial institution has satisfied the appropriate conditions.

In line with the long-standing view of the Agencies that the CRA was not intended to establish a regulatory allocation of credit, the Agencies have neither requested commitments from applicants to make particular types or amounts of loans nor specified the terms or conditions for such loans. The Agencies will review whether the policies that an applicant commits to adopt are reasonably directed at the type of deficiencies, if any, found in the applicant's record, and whether those policies are consistent with the safe and sound operation of the financial institution.

Role of Meetings

While not required under the CRA or the regulations of the Agencies, the Agencies have in many instances found private meetings between an applicant and a protestant to be helpful. Such meetings may clarify the matters at issue, assist the Agencies in determining whether additional information is required, help to plan the direction of the necessary analysis, and, in some instances, resolve differences based on misunderstandings between the parties. These meetings often provide the protestant and applicant an opportunity to submit information to clarify or to support points made in their written submissions.

Although the Agencies believe that ongoing discussion between a financial institution and members of the institution's community is the best way to determine a community's needs, any decision to negotiate or to reach a formal agreement, either during or outside of the applications process, is at the discretion of the parties. The Agencies may, in appropriate cases, facilitate private meetings and may attend them. In doing so, however, the Agencies will maintain a neutral role, and attendance and participation by the parties are voluntary. The purpose of such private meetings is not to provide a forum for the negotiation of a formal agreement among the parties, and the Agencies do not

Agencies will act on an application once it has obtained a record sufficient to support a determination in the matter.

Each Agency may, under certain circumstances, order a public meeting, hearing or oral argument. For example, an Agency may find that a public meeting or hearing on an application would be helpful in order to develop a complete record for decision. A public meeting or hearing may be ordered if the written submissions and materials presented at the private meetings do not develop an application record that the reviewing Agency believes is sufficient for decision. In such situations, the decision to call a public meeting or hearing would not be based on the inability of the parties to reconcile their differences in private meetings, but rather on the need for additional information that might be collected through such a process. Each Agency follows its own regulations and procedures with respect to ordering public meetings, hearing or oral arguments.

Extension of Comment Period

Parties desiring to comment on applications, including those wishing to comment on the CRA record of a particular financial institution, should do so promptly and within the time periods specified in the rules of the appropriate reviewing Agency and the relevant public notices. The Agencies believe that this is important in on order for the Agencies to carry out their responsibility to process applications within applicable time limits consistent with the public interest. Timely submission of comments also provides an opportunity for response by applicants and ensures time for any necessary analysis by the reviewing Agency.

In accordance with the rules of the Agencies, extensions of time for public comment will be provided only upon a showing of good cause or as otherwise permitted by agency regulations. For example, a brief extension would be appropriate where the application has not been promptly made available for inspection by the parties or where there has been inadequate public notice of the application. The Agencies do not believe that extensions of time are appropriate solely when the commenter desires more time to conduct discussions with an applicant. An extension of the comment period will only be for a brief period and normally will not be appropriate if it will extend the application-processing period beyond the time limits established in the relevant statute or Agency rules. A commenter that fails to submit comments on an application until after the close of the comment period (or any extension) may be precluded from participation.

Conclusion

The Agencies consider it important that financial institutions act effectively to meet the requirements of the CRA in a positive and ongoing manner. The Agencies believe that this can be done in a way that will not only benefit local communities, but also will be consistent with the safe and sound operation of financial institutions. Doing so, however, requires managerial effort, oversight and review. An institution's processes for meeting the credit needs of its community must reflect an understanding of those needs and take into account changes that may occur in the community's credit needs. By applying sound management techniques to the challenges presented by the CRA, financial institutions can be agents of positive change for the cities, towns and rural areas of this country—thereby benefiting themselves as well as the communities that they serve.

Where to go for more information

Organizations

The following organizations can provide information and assistance to community organizations in utilizing the Community Reinvestment Act:

1. Association of Community Organizations for Reform Now (ACORN)
739 8th Street, SE, Washington, DC 20003
(202) 547-9292; Contact: Chris Lewis

2. Center for Community Change (CCC)
1000 Wisconsin Avenue NW, Washington, DC 20007
(202) 342-0519; Contact: Allen Fishbein, Debbie Goldberg

3. National Community Reinvestment Coalition
c/o The Enterprise Foundation
505 American City Building, Columbia, MD 21044
(301) 964-1230

4. National Training and Information Center (NTIC)
810 North Milwaukee Avenue, Chicago, IL 60622-4103
(312) 243-3035; contact: Gale Cincotta

5. Woodstock Institute
407 South Dearborn, Suite 550, Chicago,IL 60605
(312) 427-8070; Contact: Kathy Tholin, Ceretha Robinson

Regulatory Agencies

Federal Financial Institution's Examination Council
1776 G St. NW, Washington, DC 20006
(202) 357-0177

Publishes "Citizens Guide to CRA" detailing CRA related guidelines and policies of each of the four financial institution regulatory agencies. Also publishes a list of central depositories for are HMDA data. Both are available free. To be placed on the mailing list for notices of regulatory applications by financial institutions, or to receive a list of institutions which have public evaluations, contact the four regulatory agencies below. All provide this information free to nonprofit organizations; request it on official letterhead.

Office of Comptroller of the Currency
Independence Square
250 E. St. SW, Washington, DC 20219
(202) 874-4530

Federal Reserve Board
20th St., Connecticut Ave. NW, Washington, DC 20541
(202) 452-3000 - (202) 452-3244 (Publications)

Federal Deposit Insurance Corporation
550 17th St. NW, Washington, DC 20429
(202) 393-8400

Office of Thrift Supervision
1700 G. St. NW, Washington, DC 20552
(202) 906-6000