Background and Summary

The Community Reinvestment Act (CRA) of 1977 (12 USC 2901), as amended, encourages each insured depository institution covered by the Act to help meet the credit needs of the communities in which it operates. The CRA requires that each Federal financial supervisory agency assess the record of each covered depository institution in helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operations. Each agency must take that record into account when deciding whether to approve an application by the institution for a deposit facility.

LINKS

- Program: Small
- Program: Intermediate Small
- Program: Large Retail
- Program: Limited/Wholesale
- Program: Strategic Plans
- Appendix A: CRA Ratings Matrix

Neither the CRA nor its implementing regulations inject hard and fast rules or ratios into the examination or application processes. Rather, the law contemplates an evaluation of each lender's record that can accommodate individual circumstances. Neither the CRA nor its implementing regulations require financial institutions to make high-risk loans that jeopardize their safety. To the contrary, the law makes it clear that lending that meets an institution's CRA responsibilities should be done within the bounds of safety and soundness. Rebuilding and revitalizing communities through sound lending and good business judgment should benefit both the communities and financial institutions.

An institution's capacity to help meet community credit needs is influenced by many factors, including its financial condition and size, resource constraints, legal impediments and local economic conditions that could affect the demand and supply of credit. You must consider these factors when evaluating an institution's performance under CRA. This is consistent with a fundamental underpinning of the CRA regulations - that the differences in institutions and the communities in which they do business preclude rigid and inflexible rules.

The CRA regulations and examination procedures embody clear, flexible, and sensible performance criteria that:

- Accommodate differences in institutions and their communities.
- Minimize burden.

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- Promote consistency and objectivity.

- Allow you to be guided by common sense rather than adherence to mechanistic procedures.

For example, the CRA regulations provide for different evaluation methods to respond to basic differences in institutions' structures and operations. The regulations provide a streamlined assessment method for small institutions that emphasizes lending performance; an assessment method for small institutions that emphasize lending performance and community development; an assessment method for large, retail institutions that focuses on lending, investment, and service performance; and an assessment method for wholesale and limited-purpose institutions based on community development activities. Further, the regulations give any institution, regardless of size or business strategy, the choice to be evaluated under a strategic plan. This type of flexibility and customizing should permit institutions to be evaluated fairly and in conformance with their business approach.

Examination Burden Reduction

The complementary regulatory themes of flexibility, responsiveness, and objectivity are extended to the examination process as part of an overarching effort, among other things, to reduce the burden of the regulations and the examination on institutions. Indeed, both the regulations and the examination procedures reflect a conscientious effort to minimize burden on financial institutions. For example, you are encouraged to draw on the results of an institution's previous examinations for information about major product lines, business strategy, and supervisory restrictions. This information is typically available from agency sources and, often, can be reviewed off-site. Further, you should already have knowledge of an institution's community and local demographics from your own past visits to the institution or to others in the same area. In these cases, you should be able to develop a good understanding of the context in which an institution operates before the actual examination begins, and then supplement and update that understanding upon arrival at the institution.

The regulations focus on performance-based criteria, rather than process or documentation. Institutions are not to be evaluated on how well they ascertain community credit needs, market and advertise their products, or how actively members of their boards of directors participate in local community organizations or civic groups. Consequently, the paperwork burden long associated by institutions with these past evaluation factors has been eliminated, as has any consideration of these factors from the examination process.

This sets the stage for a more constructive, credible, efficient, and unobtrusive examination process that concentrates on results. Both the regulations and the examination procedures promote and establish evaluation methods based on reviewing objective data that institutions can also use to measure their own performance. This should further minimize burden since examination results will be more understandable and, over time, more predictable.

Rather than a "one size fits all" examination, we developed separate procedures for small, intermediate small, and large savings associations. We also have procedures for wholesale or limited purpose associations that are operating under an approved strategic plan. Further, you are expected to use common sense to tailor the examination to mitigate the burden on the institution. For instance, you can perform some examination procedures in advance of the on-site examination. This tailoring allows you to take reasonable steps to reduce burden while ensuring that the examination process is more understandable for the institution.

Performance Context

You should evaluate an institution's performance under the regulatory assessment criteria in the context of information about the institution, its community, and its competitors, such as:

- Demographic and economic data about the institution's assessment area(s).
- Information about local economic conditions.
- The institution's major business products and strategies.
- Its financial condition, capacity, and ability to lend or invest in its community.

In addition, you can facilitate your review by gathering information from the following sources:

- Examinations of other institutions serving the same or similar assessment areas.
- Reviewing information from other recent community contacts.
- Reviewing information about the assessment area developed cooperatively by the different agencies.

You will also review information an institution chooses to provide about lending, investment, and service opportunities in its assessment area(s), as applicable. You should not, however, require the institution to create such information, nor should you ask for any information other than what the institution may already have developed as part of its normal business practice. Additionally, you should not evaluate an institution on its efforts to ascertain community credit needs, market its products, geocode its loans, or record CRA-related discussions in its board minutes nor rate an institution on the quality of any contextual information that it may provide.

Role of Community Contacts

Interviews with local community, civic, or government leaders can help you learn about the community, its economic base, and local community development initiatives. They can also help you understand public perceptions of how well local institutions are responding to credit needs. These interviews help provide balance to your understanding of the performance context. Community contact interviews normally take the form of personal meetings, but telephone conversations or larger group meetings may also be appropriate.

Information from community contacts can provide you with valuable insights, particularly if you have relatively little experience or familiarity with an institution's assessment area. Contacts may be made as part of an examination, or prior to the start of an examination, and typically will be conducted by the examiners responsible for the CRA examination. In addition, wherever possible, the agencies will draw on recent local interviews conducted by other agency staff, or by other regulatory agencies with CRA responsibilities.

Assessment Area Considerations

Institutions must identify one or more assessment areas within which the agencies will evaluate the institution's performance. In most cases, the institution's assessment area will be the town, municipality, county, metropolitan division, some other political subdivision, or the metropolitan statistical area (MSA) in which its branches are located and a substantial portion of its loans are made. An assessment area may be adjusted where the boundaries of a political subdivision would otherwise be too large for the institution to serve, have an unusual configuration, or would include significant geographic barriers. When the assessment area coincides with recognized political subdivisions, or has not changed in any way since the previous examination, you need not conduct a comprehensive reevaluation of the assessment area.

When evaluating an institution's performance, you should use the assessment area designated by the institution provided that it meets regulatory criteria. If the institution's assessment area does not meet the regulatory criteria, you should revise the assessment area so that it complies with the regulations. Discuss the revisions with institution management and use the revised assessment area to evaluate performance. However, unless the assessment area reflects illegal discrimination, you should not consider problems with the designation of the assessment area when assigning a rating to the institution. Consequently, you should try to minimize any burden associated with the delineation of communities and inconsistencies resulting from your criticizing community delineations as being too large at one examination and too small at the next.

Small Savings Association Performance Criteria

The effect of regulatory and examination burden can be more pronounced in small savings associations. Limited financial resources and staffing, and competitive factors often influence the way that small institutions can meet their responsibilities under CRA. In recognition of these factors, the regulations established a streamlined assessment method for small institutions that significantly reduces examination burden. The regulations contain only five performance criteria:

1. The institution's loan to deposit ratio adjusted for seasonal variation and, as appropriate, other lending related activities such as secondary market participation, community development loans or qualified investments.

2. The percentage of loans and other lending-related activities located in the institution's assessment area.

3. The distribution of lending among borrowers of different income levels and business and farms of different sizes.

4. The distribution of lending among geographies of different income levels.

5. The institution's record of taking action, if warranted, in response to written complaints about its CRA performance.

Small institutions are eligible for an "Outstanding," or "Satisfactory" rating. You may conclude that an institution's performance so exceeds the standards for a Satisfactory rating under the five core criteria that it merits a rating of Outstanding. In addition, at the institution's option, you should consider the institution's performance in making qualified investments and in providing services that enhance credit availability in its assessment area(s) in order to determine whether the institution merits an Outstanding rating.

In carrying out your examination responsibilities, you should exercise common sense in deciding how much material to review and what steps are necessary to reach an accurate conclusion. For example, if an institution's assessment area is comprised of only a few geographies, a geographic analysis of loans within the assessment area may be inappropriate or unnecessary. Or, if an institution has done an analysis to determine where, and to whom, it is making loans in its assessment area to assist itself in its business efforts, you may be able to validate and then use the institution's analysis rather than conduct a detailed analysis of your own. In other words, when evaluating the performance criteria, you should always consider and use available, reliable information.

Similarly, if an institution's loan-to-deposit ratio appears low, the examination procedures ask you to evaluate the institution's lending-related activities, such as loan sales and community development lending and investments to determine if they materially supplement its lending performance as reflected in its loan-to-deposit ratio. However, such an analysis may not be necessary or a less extensive analysis may be sufficient if the loan-to-deposit ratio is high.

Intermediate Small Savings Association Performance Criteria

The intermediate small savings association performance criteria – the Lending and Community Development Tests – cover all institutions with assets of $250 million or more, but less than $1 billion. OTS evaluates these institutions under the small bank lending criteria, and the following community development performance criteria:

- The number and dollar amount of community development loans.
- The number and dollar amount of qualified investments
- The extent to which the bank provides community development service.
- The bank's responsiveness through such activities to community development lending, investment, and services needs.

Large Retail Savings Association Performance Criteria

The large retail savings association performance criteria – the Lending, Investment, and Service Tests – cover all institutions with assets of $1 billion or more unless they requested designation and received approval as wholesale or limited-purpose savings associations or have been approved for evaluation under a strategic plan.

As under the streamlined small association procedures, you are expected to exercise judgment and common sense to minimize the burden imposed by the examination process, consistent with a complete and accurate assessment of performance. Therefore, for example, you may be able to use economic and demographic data analyzed in an examination of one institution in examinations of other institutions serving the same or similar assessment areas. Community contacts may also be combined to cover more than one institution in a given market. In cases where an institution has analyzed its CRA performance, you may use those analyses, after verifying their accuracy and reliability, and should supplement those analyses only where questions are raised. You should consider any performance related information offered by an institution but should not request information not called for by examination procedures.

Large institutions do face burdens that small institutions do not, particularly related to data collection and reporting. However, the existence of those data in automated form will permit you to conduct much of the necessary analysis prior to the on-site examination and thereby reduce any disruptions caused by your presence at the institution. As in small institutions, you must be sensitive to the burden of the examination process and use judgment and common sense when conducting examinations, performing only those steps necessary to arrive at an accurate assessment of the institution's performance.

Wholesale/Limited-Purpose Performance Criteria

In order to be evaluated under the Community Development Test, an institution must be designated as a wholesale or limited-purpose savings association following submission of a written request to its primary regulator. Once an institution has received a designation, it will not normally have to reapply for that designation. The designation will remain in effect until the institution requests that it be revoked or until one year after the agency determines that the institution no longer satisfies the criteria for designation and notifies the institution of this determination.

Wholesale or limited-purpose institutions are evaluated on the basis of their:

- Community development lending, qualified investments, or community development services.
- Use of innovative or complex qualified investments, community development loans, or community development services and the extent to which investments are not routinely provided by private investors.
- Responsiveness to community credit and development needs.

You must be cognizant of the context within which a wholesale or limited-purpose institution operates. You should recognize that these institutions may tailor their community development activities based on their own circumstances and the community development opportunities available to them in their assessment areas or the broader statewide or regional areas that include the assessment areas.

Institutions need not engage in all three categories of community development activities to be considered satisfactory under the community development test. Community development loans, investments and services can be directed to a statewide or regional market that includes the institution's assessment area and still qualify for consideration under the community development test as benefiting the assessment area. Moreover, if an institution has a satisfactory community development record in its assessment area, you should consider all community development activities regardless of their location.

As with other performance tests, in applying the community development test, you should perform only those analyses that are necessary to reach an accurate conclusion about the institution's performance, use all available, reliable information, and avoid duplication of effort to reduce burden.

Strategic Plans

The regulations permit any institution to develop, and submit for approval by its primary supervisory agency, a strategic plan for addressing its responsibilities with respect to CRA. The regulations require that the plan be developed in consultation with members of the public and that it be published for public comment. The plan must contain measurable annual goals. A single plan can contain goals designed to achieve only a Satisfactory rating or, at the institution's option, can contain goals designed to achieve a Satisfactory rating, as well as goals designed to achieve an Outstanding rating.

This approach to addressing an institution's CRA responsibilities presents an opportunity for a very straightforward examination. The first question you should investigate is whether the institution met its goals. If the institution met its goal, assign the appropriate rating. The appropriateness of the goals will have already been determined in the process of public comment and agency review and approval. Consequently, further investigation relating to the context of the institution should not be necessary. Obviously, if the institution did not meet some or all of the plan's goals, you must evaluate whether the institution met a substantial number of goals and, in doing so, exercise some judgment regarding the degree to which the institution missed the goals and the causes.

However, you should approach an examination of an institution operating under a plan understanding that part of the purpose for these regulatory provisions was to give the institution significant latitude in designing a program that is appropriate to its own capabilities, business strategies, and organizational framework, as well as to the communities that it serves. Consequently, the institution may develop plans for a single assessment area that it serves, for some of the assessment areas that it serves, or for all of them. It may develop a plan that incorporates and coordinates the activities of various affiliates. It will be your challenge to evaluate institutions operating under one plan or a number of plans in a way that accurately reflects the results achieved and that sensibly wraps that evaluation into the overall assessment of the institution.

As with other aspects of the CRA examination, you should first make the greatest use possible of information available from the agencies to evaluate performance under the plan. However, it is likely that some elements of a plan under review will not be reflected in public or other agency data. Consequently, you may, due to necessity, have to ask the institution for the data necessary to determine whether it has met its goals. You should do so, to the greatest extent possible, by asking the institution to provide data for review prior to going on-site for the examination. You should also seek to mitigate burden by, wherever possible, using data in the form maintained by the institution.

Ratings and Public Evaluations

Under each of the CRA assessment methods, OTS assigns an institution one of the four component ratings. They are:

- Outstanding record of meeting community credit needs.
- Satisfactory record of meeting community credit needs.
- Needs to improve record of meeting community credit needs.
- Substantial noncompliance in meeting community credit needs.

OTS judges an institution's performance under the tests and standards in the rule in the context of information about the institution, its community, its competitors, and its peer. Descriptions of the performance necessary to attain each rating are found in Appendix A of this section. An institution's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspect may compensate for weak performance in others. The institution's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as described in Appendix A. In addition, OTS adjusts the evaluation of an institution's performance under the applicable assessment method in accordance with 12 CFR § 563e.21 and § 563e.28. These regulatory provisions allow adjustments on the basis of evidence of discriminatory or other illegal credit practices.

At the conclusion of each examination, OTS prepares a written public evaluation of the institution's record of meeting the credit needs of its entire community, including low-and moderate-income neighborhoods. This evaluation assigns a rating to the institution's performance in helping to meet the credit needs of its community and contains a statement describing the basis for the rating. In addition, each public evaluation states the your conclusions, and the facts supporting those conclusions for each assessment factor described in the regulation for the examination method used. These conclusions and supporting facts are presented separately for each metropolitan area in which the institution maintains one or more branch offices.

If the institution has branch offices in two or more states, the public evaluation contains a separate rating and written evaluation of the institution's record of performance in each state where it maintains branches in addition to the evaluation of the entire institution's record of CRA performance. The state level evaluation separately presents the institution's performance in each MSA where it has branches and a discussion of its performance in the nonmetropolitan area of the state if the institution maintains one or more branch offices in the nonmetropolitan area of the state. In the case where an institution has branches in two or more states within a multistate metropolitan area, the public evaluation separately rates and evaluates performance for the multistate metropolitan area and adjusts the related state evaluations accordingly. Public evaluations also describe how OTS performed the examination of the institution and include a list of the individual branches it examined.

REFERENCES

Laws and Regulations

12 USC § 2901 et seq.	Community Reinvestment Act
12 CFR Part 563e	Office of Thrift Supervision CRA Regulation
66 Fed Reg 36620 et seq. (July 12, 2001)	Interagency Questions and Answers Regarding Community Reinvestment
69 Fed Reg 51155 (August 18, 2004)	CRA Final Rule
72 Fed Reg 13429 (March 22, 2007)	CRA Final Rule

OTS Guidance

CEO Memo 232	CRA Consideration for Activities Related to Hurricanes Rita and Katrina (12/20/2005)