
**Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Federal Reserve Board
Office of Thrift Supervision**

**Interpretive Letter #765
January 1997
12 U.S.C. 2901**

December 24, 1996

[]
[]
[]
[]

Dear []:

This letter responds to your correspondence dated September 12, 1996, concerning consideration under the revised Community Reinvestment Act (CRA) regulations of loans by [] (Bank) to churches located in low- and moderate-income areas, and churches with predominantly minority congregations and memberships. You indicate that these loans will be used for church premises. You also ask whether loans to Community Development Corporations (CDCs) affiliated with churches and other religious organizations which are involved in economic development, revitalization and/or rehabilitation and are typically located in low- and moderate-income areas or inner city areas would receive favorable consideration under the CRA regulations. As you know, the CRA regulations establish the framework and criteria by which the regulatory agencies assess an institution's record of helping to meet the credit needs of its community. The four bank and thrift regulatory agencies have promulgated substantively identical CRA regulations.¹ Therefore, staff from all of the agencies have considered the issues you raise and concur in the opinions expressed in this letter.

As explained more fully below, [Bank] will receive favorable consideration under the CRA regulations with respect to church premises loans that come within the definition of loans to small businesses. [Bank]'s loans to CDCs affiliated with churches also will receive favorable consideration under the CRA regulations to the extent that they constitute community

¹ 12 C.F.R. parts 25, 228, 345, and 563e (1996).

development lending, *i.e.* promote economic development or revitalize or stabilize low- or moderate-income geographies.²

Discussion

The CRA regulations provide methods for evaluating a financial institution's CRA performance depending on the size of the institution and its business strategy. Large retail institutions³ receive favorable consideration under the lending test for loans to small businesses located in the institutions' assessment area(s) and for community development lending.⁴

A. Favorable Consideration of Loans to Small Businesses

"Small business loans" are defined as loans that meet the definition of "loans to small businesses" in the instructions to the "Consolidated Reports of Conditions and Income" (Call Report) and "Thrift Financial Reports" (TFR).⁵ Loans to small businesses under the Call Report and TFR include loans for business purposes with original amounts of \$1 million or less that are secured by non-farm nonresidential properties.⁶ The term "non-farm nonresidential properties" includes loans secured by real estate as evidenced by mortgages or other liens on, among other things, churches.⁷

You have indicated that the loans in question are for premises of churches either located in low- and moderate-income areas or having predominantly minority congregations and

² Loans that help provide affordable housing and loans that help provide community services targeted to low- or moderate income individuals also come under community development. 12 U.S.C. §§ 25.12(h), 228.12(h), 345.12(h) and 563e.12(g). However, we have limited our response to address the questions about which you specifically have inquired, *i.e.*, loans that promote economic development or revitalize or stabilize low- or moderate-income geographies.

³ For purposes on this response, we note that TCB is subject to the performance standards applicable to large institutions. Large institutions have total assets of more than \$250 million or are affiliates of a holding company with \$1 billion or more in bank and thrift assets. *Cf.* 12 C.F.R. §§ 25.12(t), 228.12(t), 345.12(t) and 563e.12(s). (Reference to the performance standards for small institutions, wholesale and limited purpose institutions and institutions operating under a strategic plan are contained in 12 C.F.R. §§ 25.21, 228.21, 345.21 and 563e.21.)

⁴ 12 C.F.R. §§ 25.22(b)(1) and (4), 228.22(b)(1) and (4), 345.22(b)(1) and (4) and 563e.22(b)(1) and (4).

⁵ 12 C.F.R. §§ 25.12(u), 228.12(u), 345.12(u), and 563e.12(t).

⁶ Call Report Instructions, Schedule RC-C, Part II.

⁷ Call Report Instructions, Schedule RC-C, Part I.

memberships.⁸ You do not indicate whether these loans are to be secured by church property. Assuming that they would be secured by church property, the loans would receive favorable consideration as small business loans under the CRA regulations if: (1) the amount of each loan is less than \$1 million; and (2) the churches to which [Bank] makes the loans are within [Bank]'s assessment area(s).

For loans that due to the size of the loan, the size of the church (greater than \$1 million in revenue), or the type of security cannot be included in the category of small business loans, an examiner would review them for qualification as community development loans.

B. Loans to CDCs Affiliated with Churches and Other Religious Organizations

The agencies recognized and stated in the preamble to the CRA regulations that loans to, or investment in, CDCs that fulfill community development purposes would receive favorable CRA consideration.⁹ The fact that a CDC may be affiliated with a particular church or churches does not change the agencies' conclusion as long as the primary purpose of the CDC continues to be community development as defined by the regulation.¹⁰

I trust this letter is responsive to your inquiry. If you have any further questions, feel free to contact me or Yvonne McIntire, an attorney on my staff, at (202) 874-5750.

Sincerely,

\s\

Michael Bylsma
Acting Director
Community and Consumer Law Division
Office of the Comptroller of the Currency

⁸ The fact that the churches have predominantly minority congregations and memberships is not relevant for purposes of assessment under the CRA regulations.

⁹ 60 Fed. Reg. 22160 n.1, 22162 n.3 (May 5, 1995); see also 61 Fed. Reg. 54650; Q/A addressing §§ _____.12(i) and 563e(12)(h).

¹⁰ 12 U.S.C. §§ 25.12(h), 228.12(h), 345.12(h) and 563e.12(g). You also indicate that the loans may be targeted to inner city areas. The fact that the loans are targeted to inner city areas is not per se relevant for CRA purposes unless these areas also qualify as low- and moderate-income areas within the meaning of the CRA regulations. See 12 C.F.R. §§ 25.12(n), 228.12(n), 345.12(n) and 563e.12(m).