Ask the Regulators

Community Reinvestment Act (CRA) Reform Update: Overview of the Interagency CRA Notice of Proposed Rulemaking (NPR)

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Carl White: Good afternoon, everyone, and welcome to a special session of Ask the Regulators and Connecting Communities®. My name is Carl White; I'm Senior Vice President over Supervision at the Federal Reserve Bank of St. Louis. Today, the Federal Reserve System, the FDIC, and also the OCC are all coming together for the CRA Reform Update—an overview of the interagency CRA notice of proposed rulemaking that was just issued last week.

So, the best experience is if you're joining us through the webinar and then through the webinar audio. Some of you who are calling in via phone and then maybe watching the webinar on a screen, you may notice just a slight delay; so, one suggestion is to go ahead and download the presentation, and then go through it as you hear the speakers advance the slides.

So, today, let me welcome our speakers. We are joined by Carrie Johnson. Carrie is the manager over the Community Reinvestment Act at the Federal Reserve Board of Governors. We also have Karen Bellesi, the Director over Community Development from the Office of the Comptroller of the Currency. And, finally, we have Pamela Freeman, the Chief over Fair Lending and CRA Exams at the Federal Deposit Insurance Corporation.

So, before I turn it over to our speakers, I do need to cover just a few call logistics which appear on Slide 2. First of all, a reminder that, as always, we do record every Ask the Regulators call, and you can get the recording using the exact same link that you used today, or you can go to our website at www.askthefed.org. And a reminder that the opinions expressed in the presentation are statements of the speaker's opinion—they're intended only for informational purposes and are not formal opinions of—nor binding on—the Federal Reserve Bank of St. Louis, the Board of Governors of the Federal Reserve System, or any of the other agencies that are on today's call. As this session relates to a proposal that's out for public comment, we encourage you to follow the process outlined in the *Federal Register* notice to submit your comments on the proposed revisions. All right, so let's jump to Slide 3. We're going to go ahead and get started, and, Carie, I'm going to turn it over to you.

Carrie Johnson: Hi, everyone. Thanks very much and good afternoon. We're all excited to have a chance to talk about the interagency proposed rulemaking on revising the Community Reinvestment Act regulation. So, in this slide you're looking at for agenda of what we'll cover today. We're going to start out by talking about the agency's objectives for the proposal, and then we'll give an overview of the key topics that are listed here on the slide. So, for assessment areas, we'll talk about the proposed provisions in terms of where banks are assessed for their CRA performance. On community development definitions, we'll talk about the proposals to provide more specificity in terms of eligible community development activities. And then we'll also spend a number of slides going over the proposed evaluation framework. And we'll walk through the four tests that would apply to large banks under the proposal. So, first the Retail Lending Test, then we'll go to the Retail Services and Products Test, and we'll also cover the Community Development Financing Test and the community development services test. And we'll also talk about the way the proposal would tailor the evaluation framework for other bank sizes and business models. We'll also talk about ratings, and we'll talk about how the proposed approach would develop ratings at the state, multi-state MSA, and the overall bank level. And then lastly, in terms of the overview, we'll talk about data collection and reporting proposal, and we'll give an overview of how the agencies propose tailoring those data requirements as well, based on bank size and business model.

So, let's go to the next slide, please. So, one sort of framing comment in terms of also talking about the timeline and the proposal is just a little bit of background. The Community Reinvestment Act was passed in 1977 and is one of several seminal pieces of legislation enacted to address inequities and access to credit. And under the CRA statute, the agencies are required to encourage banks to help meet the credit needs of the local communities where they are chartered, consistent with safe and sound operations. And the three agencies participating today—the Federal Reserve Board, the FDIC, and the Office of the Comptroller of the Currency—are all responsible for issuing regulations in terms of how banks are evaluated under the Community Reinvestment Act. And, in doing these evaluations, the agencies are required to assess the bank's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operation.

And so, as Carl noted, last week, on May 5, the three agencies released a Notice of Proposed Rulemaking to update the CRA regulations. The Notice of Proposed Rulemaking, or NPR for short, requests comments on all aspects of the proposal as well as the number of alternatives. The NPR has about 180 questions and, as is noted here on the bottom of the slide, the deadline for comments is August 5, 2022, and we all look forward to receiving feedback from the public comments.

So, let's turn now to the next slide that talks about the objectives for the agency's NPR, and these objectives are also discussed in the NPR as well. So, the first objective here listed is to strengthen the achievement of the core purpose of the statute. And in issuing this proposal, the agencies seek to strengthen the CRA regulations to better achieve the purposes of the law, including by expanding access to credit, investment, and basic banking services in low- and moderate-income communities. And one way the proposal does this is by evaluating bank engagement across geographies and across activities. And as we go through the slides, you'll see a number of ways this is done across the proposal. Another key part of this objective of our proposal that seeks to promote financial inclusion, and one example of that is provisions related to minority depository institutions and Treasury Department certified CDFIs.

The second objective in the NPR, and listed on this slide, is to adapt to changes in the banking industry, including mobile and online banking. And as many of you know the last, most substantive interagency revision to the CRA regulations was in 1995, and we all know that a lot has changed in banking since then—particularly mobile and online banking—and as a result, the proposal aims to really update the regulations to take that into account.

The third objective is to provide greater clarity and consistency in terms of how the regulations are applied, and as we'll talk about today, the proposed use of standardized metrics in CRA evaluations is one example of how the agencies have tried to meet that objective with greater clarity and consistency.

The fourth objective listed here is to tailor performance standards to account for differences in bank size, business model, and local conditions.

And then the fifth is to similarly tailor data collection and reporting requirements and to use existing data whenever possible.

The sixth one listed here is to promote transparency and public engagement, and the proposal recognizes that both of these are fundamental aspects of the CRA evaluation process. And, one thing to note here that's focused in terms of transparency is a proposal in the NPR to include Home Mortgage Disclosure Act data, or HMDA data, that already exists and to provide that information in large bank performance evaluations. And, specifically, this would cover mortgage originations and applications broken down by borrower or applicant race and ethnicity. And, under the NPR, this disclosure would be for transparency purposes only and would not be a factor into an agency CRA evaluation for a bank.

Getting towards the bottom here, the seventh objective is to ensure that CRA and fair lending are mutually reinforcing and in meeting the credit needs of their entire community. The proposal seeks to reinforce that the banks must do so in a fair and equitable manner.

And then, lastly, the eighth objective in the NPR, is to create a consistent regulatory approach across all three agencies.

So, let's go now to the next slide, which starts out talking about the proposal on assessment areas. And, again, that really focuses on issues around where banks are assessed for their CRA performance. And so, one thing to point out just at the outset is that under the current regulation, banks are evaluated where they have a main office, where they have branches, and where they have deposit-taking ATMs. The agency's goal in the NPR is to maintain a focus on evaluating banks where they have branches in physical locations, but to also take into account the growing use of mobile and online banking, as I mentioned just a bit ago. And, external stakeholders, research, and agency outreach—all of that has underscored the important role that branches continue to play in communities. However, at the same time, many stakeholders have urged the regulators to update CRA provisions to better adapt to bank online models for delivering loans and providing financial services. And so, as we'll talk about today, the proposal focuses on both of those things. And so, you'll see here on this slide, the term, "facility-based assessment areas"—that's bolded—that's the term the NPR uses to refer to assessment areas that are based on a bank's physical location. So, these facility-based assessment areas would continue to be where banks have their main offices, their branches, their deposit-taking ATMs—the NPR uses the term, "deposit-taking remote service facilities," and that would include ATMs.

And a few things to point out that are touched on this slide about these facility-based assessment areas—for large banks and wholesale unlimited purpose banks—the NPR proposes that these banks would be required to delineate facility-based assessment areas with at least one MSA or metropolitan division or at least one or more contiguous counties. And, the result is large banks and wholesale limited purpose banks would not be allowed to delineate partial county assessment areas, which the agencies believe would support in further fair lending. For intermediate and small banks, however, the proposal would allow these banks to have greater flexibility and would allow them to delineate partial county assessment areas consistent with current practice and recognizing their smaller service areas.

And the NPR would also include a few other provisions specific to facility-based assessment areas. And, importantly, one limitation to flag is that in all cases—and for all banks—facility-based assessment areas may not reflect the legal discrimination, and they may not arbitrarily exclude low- or moderate-income census tracts. And, this requirement is retained from the current regulation, and the agencies believe that this is really an essential way that CRA and fair lending are mutually reinforcing.

So, we can move now to the next slide, which also focuses on assessment areas, but talks about some of the provisions that are new, in terms of thinking about how banks have that broader online and mobile banking footprint. So, if you look at the top of the slide under the first bullet—saying "retail lending assessment areas"—this is the term used in the proposal that would apply to large banks and would require large banks to delineate retail lending assessment areas where the bank has a concentration of either home mortgage loans or small business loans outside of the facility-based assessment areas. And this would capture bank lending taking place outside of its branch-based network. And under the proposal, a large bank would be required to delineate retail lending assessment areas where it has an annual lending volume of at least 100 mortgage loans or at least 250 small business loans. And those 100 and 250 thresholds would apply in either an MSA or in a non-metropolitan area of the state, and a bank would need to meet those thresholds two years in a row in order to trigger the retail lending assessment area requirement. And one thing to note, which is sort of baked into the name, is that banks would only be evaluated on their retail lending activity in these retail lending assessment areas.

And then if you look at the second bullet—saying “outside retail lending areas”—this part of the NPR would propose evaluating the remaining lending a bank does outside of all of its assessment areas and the proposal describes this as outside retail lending areas. And this evaluation of more diffused lending taking place outside of assessment areas would happen only at the institution level and would be for large banks and certain intermediate banks.

And then at the bottom of the slide, the last bullet point switches gears and talks about or focuses on the proposal related to where community development activity can be evaluated. And, under the proposal, in order to provide greater certainty, the agencies propose considering all community development qualifying activities regardless of location for banks that are evaluated under the new Community Development Financing Test or the community development services test. In this proposal, we address a significant concern that we’ve heard from stakeholders regarding uncertainty in terms of when community development activities outside of the bank’s assessment areas would be included in an evaluation. And Pam is going to talk later, in a few slides, about this approach when we get to the slides that cover the Community Development Financing Test and the community development services test.

And, so, let’s now move on to the next slide, Slide 8, which switches gears and talks about proposals related to community development definitions. These proposals are really intended to respond to stakeholder feedback about improving transparency and certainty about which activities qualify as community development activities that are eligible for CRA credit. And under the existing CRA regulations, community development activities fall into four broad categories: affordable housing is the first; community services is the second; next is economic development; and then lastly, one category called revitalization and stabilization.

In the NPR, the agencies propose to establish 11 community development categories that would have specific eligibility standards. And these 11 categories really build on the current regulations community development definition as well as incorporate key aspects of existing guidance that are currently provided in interagency Qs & As. The 11 categories are intended to reflect an emphasis on activities that are responsive to community needs, especially the needs of low- and moderate-income individuals, as well as communities, distressed or underserved rural communities, and small businesses and small farms.

One key part of the proposal to highlight is the primary purpose standard, and that's this first sub-bullet on the slide—the primary purpose standard is intended to ensure that eligible community development activities are responsive to community needs, and the standard has two overall prongs. And generally, all activities would need to meet one of these prongs to be eligible for CRA credit. So, the first prong would look at whether a majority of dollars, beneficiaries, or housing units would go to one of the 11 categories. And in the second one, would be in cases where the majority standard is not met—the second option would look at whether the activity had an express, bona fide intent of meeting the community development standard.

One nuance to point out about this primary purpose standard is that mixed income housing would qualify based on the portion of housing that is affordable to low- and moderate-income households, with the exception of investments in low-income housing tax credits, which would receive full consideration.

And then, as you'll see at the bottom of this slide, another proposal that's important to highlight is that for additional clarity, the agencies propose to maintain a publicly available illustrative list of community development activities. And then also the agencies propose a process that would be open to banks to confirm the eligibility of community development activities in advance.

And let's go to the next slide. And this slide shows the 11 community development categories that are included in the NPR, and I'll highlight just a few of these. First, for affordable housing, one thing to point out is the affordable housing category under the definition includes a prong that is specific to naturally occurring affordable housing recognizing the importance to communities of multi-family rental housing that does not involve a government program or subsidy. And the proposed naturally occurring affordable housing definition clarifies that this category can receive CRA credit if it meets a set of standards to ensure that the housing benefits low- or moderate-income individuals.

The second category, just to highlight, is specific to investments, loans, and other activities undertaken with minority depository institutions, women's depository institutions, low-income credit unions, and Treasury Department certified CDFIs. And this would be a new community development category that's specific to activities with these entities.

One other thing to note just about these categories is that a number of them would be for a place-based activity and would replace the current revitalization and stabilization component. And there are six of these place-based activities. And one thing to note about these place-based activities is that all of them specify that eligible activities may not displace or exclude low- or moderate-income residents in the targeted census tract.

One of these place-based categories to highlight just briefly is the disaster preparedness and climate resiliency category. Activities that could be considered under this definition could include things like activities financing community centers that serve as cooling or warming locations in LMI census tracts or retrofitting affordable housing to withstand future disasters or climate-related risks.

And then the last one I'll highlight just quickly is a place-based definition for activities in native land areas. The provisions in this category would reflect a specific geographic definition for native land areas in the NPR, and a bank could receive CRA credit for certain eligible CD activities in these designated native land areas. And so, with that, I am going to turn things over to Karen to talk about the evaluation framework.

Karen Bellesi: Carrie, thank you. The chart on this slide summarizes the proposed evaluation approach for all bank type types apart from banks that elect to be evaluated under an approved strategic plan. The agencies propose a tailored evaluation framework with different performance tests applied to banks of different sizes and business models. The agencies believe it is important for the evaluation framework to recognize differences in bank capacities, business models, and strategies. As you can see on the slide, the proposal would have three categories of banks based on asset size: large, intermediate, and small. In addition, banks could also be designated as wholesale or limited purpose banks with agency approval. We will look at the evaluation approach for each bank type in more detail in the next four slides and then turn to the discussion of the proposed performance test.

Next slide, please. Four performance tests are proposed for large banks. The NPR would define a large bank as a bank with average assets of at least $2 billion in both of the prior two calendar years. Each of the four proposed performance tests would measure a different aspect of how responsive a bank's retail and community development activities are to the credit needs of its local communities. This approach is similar in overall scope to the three large bank performance tests applied under the current CRA regulation.

The proposed Retail Lending Test would measure how well a bank's retail lending meets the credit needs of online individuals, small businesses, small farms, and low- and moderate-income census tract through an analysis of lending volume and lending distributions.

The proposed Retail Services and Products Test would evaluate the availability and responsiveness of a bank's retail banking services and products targeted to low- and moderate-income individuals and census tracks.

The proposed Community Development Financing Test would assess a bank's record of helping to meet community development financing needs through its provision of community development loans and community development investments.

The proposed Community Development Services Rest would assess a bank's record of helping to meet community development service needs through its provision of community development services.

Please move to the next slide. The NPR would define an intermediate bank as a bank with average assets of at least $600 million in both of the two prior calendar years and less than $2 billion in either of the two prior calendar years.

For retail lending, intermediate banks will be evaluated under the proposed Retail Lending Test.

Regarding community development activities, an intermediate bank would be evaluated under the community development test that is currently applicable to intermediate small banks, unless it opts to be evaluated under the proposed Community Development Financing Test. If an intermediate bank chooses evaluation under the Community Development Financing Test, it would have the option to request consideration for activities that qualify under the proposed retail services and products test or the proposed community development services test when its performance is at least satisfactory without consideration of those activities.

An intermediate bank would also continue to have the option to designate a home mortgage loan, a small business loan, or a small farm loan for consideration as a community development loan under either evaluation approach, provided that the loan has a primary purpose of community development and is not required to be reported.

Slide 13, please. The NPR would define a small bank as a bank with average assets of less than $600 million in either of the two prior calendar years.

Under the proposal, small banks would continue to be evaluated under the existing small bank performance standards unless the bank opts into the proposed Retail Lending Test. Retail services activities that enhance the credit availability in a bank's facility-based assessment areas and community development investments and services could also be considered at a small bank's option, when the bank is at least satisfactory without consideration of such activities.

Next slide, please. Wholesale and limited purpose banks would be evaluated under the proposed Community Development Financing Test for Wholesale or Limited Purpose Banks, which is a modified version of the proposed Community Development Financing Test. A wholesale or limited purpose bank could also request consideration for community development service activities at its option.

Now moving on to strategic plans. All banks would continue to have a strategic plan option, subject to approval by the bank's regulator. The proposed strategic plan criteria are intended to better ensure that a bank addresses its CRA obligation to meet the credit needs of low- and moderate-income individuals and communities. Banks that elect evaluation under an approved strategic plan would have the same assessment area requirements as other banks. Strategic plans would also include the same performance test and standards that would otherwise apply - unless the bank is substantially engaged in activities outside the scope of the proposed performance tests (in which case a bank would need to explain why different standards would be more appropriate in meeting the credit needs of its communities).

Next slide, please. Now I would like to turn to the performance tests. For the Retail Lending Test, the proposal would establish metrics, benchmarks, and performance thresholds to make evaluations more transparent and predictable. Importantly, the metrics approach would be tailored to local opportunities and economic conditions in each assessment area.

Under the proposed Retail Lending Test, retail lending would be divided into six product lines: closed-end home mortgage loans, open-end mortgage loans, multi-family loans, small business loans, small farm loans, and automobile loans.

Small business and small farm lending would initially continue to be evaluated as separate product lines and would be aligned with the CFPB's proposed small business definition and its section 1071 rulemaking. In recognition of the importance of automobile loans to low-and moderate-income borrowers, auto lending would be the only type of consumer lending evaluated under the Retail Lending Test. Other types of consumer loans would be considered qualitatively under the Retail Services and Products Test.

Next slide, please, which should be Slide 16. The proposal provides a clear standard for determining when the retail loan product is considered a major product line and subject to evaluation under the Retail Lending Test.

Major product lines would be determined for each facility-based assessment area, each retail lending assessment area, and the outside retail lending area, as applicable. Under the proposed major product line standard, a retail product, except for automobile loans, would be evaluated under the Retail Lending Test when it represents at least 15% of the total dollar volume of a bank's retail lending in a specific area. For example, a bank would meet or exceed the major product line standard for closed-end mortgages if it had $1 million dollars in overall retail lending in an assessment area and at least $150,000 of that lending was for closed-end home mortgage loans.

A different approach would be used for auto loans as they typically involve smaller dollar amounts. For auto loans, two percentages would be averaged to determine that if the 15% threshold is met—the percentage of auto lending by dollar volume and the percentage by loan count.

Next slide, please. The proposal would establish a set of retail lending metrics and benchmarks to evaluate a bank's dollar volume of retail lending and to evaluate the lending distributions of major product lines to borrowers and census tracts of different income levels.

First, the retail lending screen serves to ensure that a bank's performance evaluation reflects the amount of a bank's retail lending relative to its presence and lending capacity in a facility-based assessment area. A bank fails to meet the credit needs of its entire community if it makes too few loans relative to its community presence, capacity, and local opportunities, even if those loans happen to be concentrated among, for example, low- and moderate-income borrowers and low- and moderate-income census tracts.

Next, a set of distribution metrics would be used to evaluate the geographic and borrower lending distributions for each major product line in each assessment area, and if applicable the outside retail lending area. The geographic distribution separately evaluates lending in low- and moderate-income census tracts. The borrower distribution evaluates lending to borrowers of different income and revenue levels. Specifically, the borrower distribution analysis for small business and small farm loans would evaluate lending to businesses with gross annual revenues of $250,000 and less, and to businesses of gross annual revenues above $250,000 to $1 million after section 1071 data is available. As explained in the preamble and Appendix A, the borrower distribution would only evaluate lending to businesses with gross annual revenues of $1 million or less until such 1071 data is available.

I would like to highlight some general points about the proposal that are consistent with the current CRA framework. First, low-income and moderate-income categories would be separately analyzed. Bank metrics would include both loan originations and purchases. The analysis would rely on benchmarks that are grounded in local demographic and aggregate peer data.

In addition, a few points are unique to evaluating multi-family loans. The borrower distribution metrics would not apply to multi-family loans. In addition, multi-family loans with a community development purpose would be considered under both the Retail Lending Test and the Community Development Financing Test.

In contrast to the current CRA framework, closed-end mortgage loans and open-end mortgage loans would be evaluated as separate product lines; and benchmarks would be based only on loan originations.

Next slide, please. The proposal would also establish lending distribution performance ranges for each rating category using a consistent and transparent method. The performance ranges would be tailored to each assessment area because the methodology relies on local data specific to an assessment area.

The NPR would establish four thresholds to set the performance range boundaries for an Outstanding, High Satisfactory, Low Satisfactory, Needs to Improve, or a Substantial Noncompliance conclusion. These thresholds would be set using local data - referred to as "community benchmarks," which reflect demographic information, such as the percentage of low-income families in an assessment area - and "market benchmarks," which represent the aggregate performance of reporting lenders. The proposal includes a standardized methodology for using these benchmarks to set performance thresholds and ranges.

To determine the Retail Lending Test conclusion for an assessment area, each major product would receive a performance score. For example, if a bank had two major product lines, closed-end home mortgages and small business loans, the bank would receive a closed-end home mortgage score and a small business score. These product scores would be combined using a weighted average based on each product's dollar volume.

While the Retail Lending Test conclusions would also give some consideration to qualitative factors, performance context would only be considered to the extent it is not already incorporated into the benchmark.

State and multi-state MSA-level conclusions would be based on the conclusions for facility-based assessment areas and retail lending assessment areas, as applicable. The Retail Lending Test conclusion assigned to the bank overall would similarly combine conclusions for facility-based assessment areas, retail lending assessment areas, and the outside retail lending area, as applicable.

In summary, the proposed Retail Lending Test would provide a bank with greater certainty about CRA performance expectations, consistently tailor expectations to the unique conditions in different markets, and automatically adjust performance thresholds over time in a way that reflects changes in business and economic cycles.

Next slide, please. Now I would like to turn our attention to the Retail Services and Products Test. This test would evaluate two prongs—delivery systems and credit and deposit products—that are responsive to the needs of low- and moderate-income consumers and communities. While the evaluation would continue to be predominately qualitative in nature, it would also incorporate some quantitative measures as guidelines.

The delivery systems prong would consist of three components: branches, remote service facilities, and digital and other delivery systems. Building on current practice, the branch availability component would evaluate the geographic distribution of a bank's branches in each facility-based assessment area, compared to the geographic distribution of census tracts, households, and businesses.

A new market benchmark is also proposed, which would be the geographic distribution of all bank branches in an assessment area. The branch availability component would continue to consider a bank's record of opening and closing branch offices, the reasonableness of branch hours, and the range of services provided at branches across census tracts of different income levels. The NPR would also provide qualitative consideration for branch facilities in areas with lower access to bank branches and in other designated geographic areas.

The second component of the delivery systems prong would evaluate availability and distribution of remote service facilities. The proposed definition of remote service facilities captures ATMs and other deposit-based facilities, such as interactive or virtual ATMs, where customers can connect with bank staff through a terminal. Like the branch distribution analysis, the evaluation would use benchmarks to complement the qualitative analysis.

The third category of the delivery systems prong would evaluate a bank's digital and other delivery systems and would apply only to large banks with assets more than $10 billion dollars. These delivery systems include, but are not limited to, mobile and online banking, telephone banking, bank-by-mail, and bank-at-work programs. Banks with assets of $10 billion dollars or less could have digital and other delivery systems considered at their option.

Under the credit and deposit products prong of the Retail Services and Products Test, examiners would qualitatively evaluate a bank's efforts to offer credit products that are responsive to the needs of low- and moderate-income consumers and communities. And for large banks with assets more than $10 billion dollars, this review would also include responsive deposit products.

When assessing performance under the Retail Service and Products Test, examiners would analyze branch availability, branch-based services, and the availability of remote service facilities at the facility-based assessment area level. The third component of the delivery systems prong, digital and other delivery systems, as well as the credit and deposits prong would be evaluated at the bank level.

And now I'm turning the presentation over to Pam Freeman. Please turn to the next slide.

Pam Freeman: Thank you, Karen. Now we are going to shift our discussion to the Community Development Financing Test. This test would use metrics and benchmarks to standardize the review of community development loans and investments while also incorporating a qualitative impact review of community development financing activity. As Carrie mentioned, the agencies would evaluate community development loans and investments in facility-based assessment areas, plus states, multi-state MSAs in nationwide areas. Banks would receive consideration for qualifying activities anywhere in a state or multi-state MSA in which they maintain a facility-based assessment area. In addition, banks would receive consideration at the institution level for any qualifying community development activities conducted.

The proposed community development financing metric would measure the dollar value of a bank's community development loans and community development investments together relative to the dollar value of deposits. The agency system rose to evaluate community development loans and investments together in the community development financing metric as opposed to separate tests, as it is currently for large banks. This would allow banks to engage in the activity best suited to their expertise and is most needed for the community development project that the bank is financing.

In addition, the agencies propose to count both new originations and prior activities remaining on the bank's balance sheet in the numerator of the metric in order to emphasize provision of long-term capital. The proposal would use benchmarks, along with the community development financing metric, to help assess bank performance. The agencies propose establishing one local and one national benchmark for each assessment area. For example, an assessment area benchmark would measure the amount of community development financing activities by other banks in the assessment area relative to the deposit base of those banks in the same area. The metrics and benchmarks would be consistent across banks and agencies who provide additional clarity about the evaluation approach. And like the Retail Lending Test, specific thresholds are not set in the proposals given the lack of community development financing data currently available.

To complement the community development financing metrics and benchmarks, the agencies propose to evaluate the impact and responsiveness of a bank's community development activities through the application of a series of specific qualitative factors. The approach of incorporating specific impact review factors into evaluations intended to promote clear and consistent procedures, which result in a more standardized process compared with current practices. In addition, this approach encourages banks to pursue activities with a high degree of impact on and responsiveness to the needs of low- and moderate-income communities. We'll turn back to the proposed impact review factors in a moment, after we discuss community development services test.

Next slide, please. The proposed community development services test would evaluate the extent to which a large bank provides community development services. The evaluation would be primarily qualitative and would be based on any relevant information provided by a bank including information such as the total number of hours for all community development services performed. In addition, the evaluation would include a review that impacted responsiveness of the bank's community development services activity, drawing on the impact review factors that we'll discuss on the next slide and other information provided by the bank to help demonstrate the responsiveness of these activities.

For large banks with assets of over $10 billion, the agencies would also apply a quantitative performance metric to inform the assessment of community development services and to provide more consistency and transparency in the valuation. The standard metric would measure a bank's total hours of community development services in a facility-based assessment area relative to the total full-time equivalent employees in the facility-based assessment area. This metric is intended to reflect a bank's volume of service activities relative to its capacity and would provide a more consistent measure of these activities.

Lastly, the agencies propose to retain the current definition of community development services to include activities that have as their primary purpose community development and a related provision of financial services. Activities that reflect other areas of expertise of a bank's employees would also be considered to be related to the provision of financial services. In addition, the agencies propose that in non-metropolitan areas, banks may receive community development service considerations for volunteer activities that meet an identified community development need, even if unrelated to the provision of financial services.

Next slide, please. So, let's turn back to the impact review. The agencies propose a set of impact factors that would inform the impact reviews of community development financing and community development services test. These factors would include but would not be limited to the specific factors proposed in the regulation and presented on this slide. Some examples of the factors proposed are activities serving persistent poverty counties and geographies with low levels of community development financing. Activities supporting minority depository institutions, women's depository institutions, low-income credit union, and Treasury department certified CDFIs. And activities that support affordable housing in high-opportunity areas.

In addition, the agencies propose to include community development grants or donations as a separate impact review factor because the proposed community development financing metric provides these activities with comparatively little emphasis on their own because the metric is based on the dollar amount of activities relative to deposits. However, small-dollar donations can be quite impactful. As noted, the impact review would apply to the Community Development Financing Test and the community development services test, as well as the Community Development Financing Test for wholesale and limited purpose banks.

Let's turn to Slide 23. The next several slides focus on ratings. The agencies propose to provide greater transparency and consistency on assigning conclusions and ratings for a bank's overall performance and is grounded in performance in its local communities. As an initial matter, the proposal would distinguish between conclusions and ratings. Under the proposal, the term, "conclusions," generally refer to the bank's performance on a particular test, such as the Retail Lending Test.

On the other hand, ratings refer to a bank's overall CRA performance under each test and across tests, for example, a state rating or institution rating. With respect to conclusions, the agencies propose maintaining the current five categories of performance test conclusions—those being outstanding, high satisfactory, low satisfactory, needs to improve, and substantial noncompliance. For ratings the agencies propose to keep the current four categories of outstanding, satisfactory, needs to improve, and substantial noncompliance. A key aspect of the proposal is if individual test conclusions at the state, multi-state MSA, or institution level would use a weighted average of the bank's assessment area performance conclusion. For example, a bank's Retail Lending Test conclusion in a state would reflect a weighted average of its assessment areas' performance in that state. The proposal would assign a weight to each assessment area based on the bank's shared deposits and shared loans associated with a specific assessment area.

Under the methodology proposed in the NPR, each performance test would result in a performance score and rating at the state, multi-state MSA, and institution level. Overall, ratings at the state and multi-state MSA and institution levels would be determined by aggregating a bank's performance scores for each applicable test from each applicable assessment area, as discussed in the next several slides. In addition, the proposal broadens the current rule's provision regarding discriminatory or other illegal credit practices by providing that any illegal practice could result in a downgrade of a bank's CRA performance rating. The proposal clarifies that this applies to bank subsidiaries as well as its relevant affiliates. Under the proposal, illegal practices would apply to all of a bank's products and services, including deposit products and other services, and would not be limited to credit practices. The CRA statute indicates that banks are required by law to meet the convenience and needs of their communities, which includes the need for credit services as well as deposit services.

Next slide, please. So, for large banks, the agencies propose to determine a bank's state, multi-state MSA, and institution rating by combining the bank's performance scores across all four performance tests. The agencies propose to maintain the emphasis on retail lending and recognize the importance of community development lending and investments by giving these tests the heaviest weight. The proposal provides a weight of 45% of the Retail Lending Test performance score; 30% of the Community Development Financing Test performance score; 15% of the retail services and products test performance score; and 10% of the community development services test performance score.

In addition to the above weighted approach, the agencies also propose to retain the requirement that as applicable for each state and multi-state MSA and at the institution level, the Retail Lending Test conclusion for a large or intermediate bank needs to be at least a low satisfactory in order for the bank's overall rating to be satisfactory or higher.

Also, the agencies propose imposing additional restrictions on state, multi-state MSA, and institution-level ratings for large banks with 10 or more assessment areas in a state, a multi-state MSA, or overall respectively. A large bank with 10 or more assessment areas, including facility-based assessment areas and retail lending assessment areas, would not be eligible to receive a "Satisfactory" or higher rating unless it achieved an overall performance conclusion of "Low Satisfactory" or better in at least 60 percent of its assessment areas. A similar provision would apply at the state and multistate MSA level.

The agencies propose this modification to the ratings approach to ensure that large banks receiving a satisfactory rating are meeting the credit needs of their entire community and not just markets with higher levels of lending and deposits that would factor more heavily into the weighted average conclusion roll-up. In this way, overall ratings would reflect performance in all markets the large bank serves.

Let's turn to slide 25 to discuss intermediate banks. For intermediate banks the agencies propose to weight both the Retail Lending Test and the applicable community development test at 50% each. This is consistent with the way we do it currently. However, the agencies propose not applying their current requirements that an intermediate bank must receive a satisfactory rating in both the Retail Lending Test and intermediate bank community development evaluation. The agencies believe eliminating this requirement for intermediate banks would allow these banks to meet community credit needs consistent with their more limited resources.

Consistent with large banks, an intermediate bank would need to receive at least a low satisfactory on the Retail Lending Test in order to receive an overall satisfactory at the institution level.

Small banks would be evaluated using the status quo small bank lending test; so their rating would be based on the lending test performance. Small banks could have and do have the option to submit retail services and community development activities for consideration to elevate a satisfactory rating to an outstanding rating. However, they could receive an outstanding rating based solely on retail lending performance as they can today.

Ratings for wholesale and limited purpose banks would be based solely on performance under the tailored version of the Community Development Financing Test.

Next slide, please. So now we're going to turn our attention to data collection and reporting. The agencies recognize the importance of using existing data sources, where possible, and a pay-learning data requirement. Under the proposal, small and intermediate banks would not have any new data requirements to the required performance test.

For large banks with assets over $10 billion, the agencies propose new reporting requirements for deposits data. They propose to require these banks to collect and maintain county-level deposit data based on the county in which the depositor's address is located, rather than on the location of the bank branch to which the deposits are assigned. Banks would report deposit data as aggregated at a county, state, multi-state MSA, and institution level.

The deposit data are necessary for calculations of the retail lending volume screen, any development financing metric, and for weighting assessment areas under the ratings proposal. FDIC summary deposits data would be used for banks with assets of $10 billion or less. Although, individual banks could choose to voluntarily collect and maintain the other deposits data. The agencies also propose that banks with assets over $10 billion would need to collect and report automobile lending data to support the metrics-based Retail Lending Test.

Next slide, please. The agencies propose to require all large banks, wholesale limited purpose banks, and intermediate banks that opt into the Community Development Financing Test to collect and maintain community development financing data. Large wholesale unlimited purpose banks would be required to collect, maintain, and report the data in a format prescribed by the agencies, while intermediate banks would have the choice to either collect and maintain community development financing data in the prescribed format or in a format of the bank's choosing.

The proposed community development financing data would be necessary to construct community development financing metrics and benchmarks used to consistently evaluate the dollar amount of a bank's community development lending investments. The agencies also propose to require that large banks with assets over $10 billion collect, maintain, and report limited community development services data in a prescribed format, which would be necessary for a metrics-based evaluation of the community development services activity. No other banks would be required by regulation to collect community development services data.

Let us turn to Slide 28. Regarding retail services and products. The agencies propose that large banks be required to collect and maintain data to support the proposal's branch analysis and remote service facilities analysis in a prescribed format. The agencies believe proposing to require data collection for branches and remote service facilities is appropriate in light of the proposed changes which make greater use of benchmarks in the evaluation of a bank's delivery system.

In addition, large banks with assets over $10 billion would have new data requirements for deposit products and digital and other delivery systems. This would facilitate a review of the largest bank's performance regarding whether digital and other delivery systems and deposit products are responsive to the needs of low- and moderate-income individuals and communities.

Regarding assessment area delineation, under the proposal, all large banks would have revised data collection and reporting requirements for assessment area delineation. These requirements would include both facility-based and retail lending assessment areas. Small and intermediate banks would collect and maintain assessment area data in their CRA public files as is currently required. These banks would not have to report assessment area data but could opt to use the large bank's data collection and reporting format for providing data to examiners during their evaluation. For all five banks, the agencies would continue to include assessment area delineations in the performance evaluation.

Let us turn to the next slide regarding comment submission. Anyone that is interested to submit a comment during the comment period which ends on August 5. Comments can be sent to any or all three agencies. The staff from all three agencies will read all comments received regardless of which agency receives any particular comment, and the introductory part of the NPR provides instructions for sending comments to each agency, and some of that information is also included on this slide.

I want to thank you for your attention to this presentation. We hope you found it informative, and we look forward to receiving your comments. And now I'm going to turn it back over to Carl.

Carl White: All right, thank you. And just a couple real quick items before we wrap up. I know we went over a few minutes, but a lot of very important information that we wanted to share with you. So, first of all, thanks to all of you for joining us this afternoon, and special thanks to Carrie, Karen, and Pamela for all their work on today's session. As I said earlier, this session will be archived, and it will be at the exact same link that you used today to sign in, or you can just go to our website, www.askthefed.org. And, finally, Ask the Regulators is a program of the Federal Reserve Bank of St. Louis intended only for informational purposes. Views are not formal opinions of—nor binding on—the Federal Reserve Bank of St. Louis, the Board of Governors of the Federal Reserve System, the FDIC, or the OCC. Thank you so much for joining us this afternoon, and we'll talk to you next time.

(END OF RECORDING)