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community to meet their obligation to assist in making the local community a better place to live and work by supporting the fundraising efforts of the NGEP.

(iv) *Example 4.* A NGEP discusses with an insured depository institution or affiliate whether particular loans, services, investments, community development activities, or other activities are generally eligible for consideration by a Federal banking agency under the CRA. The NGEP and insured depository institution or affiliate do not discuss the adequacy of the CRA performance of the insured depository institution or affiliate.

(v) *Example 5.* A NGEP engaged in the sale or purchase of loans in the secondary market sends a general offering circular to financial institutions offering to sell or purchase a portfolio of loans. An insured depository institution that receives the offering circular discusses with the NGEP the types of loans included in the loan pool, whether such loans are generally eligible for consideration under the CRA, and which loans are made to borrowers in the institution's local community. The NGEP and insured depository institution do not discuss the adequacy of the institution's CRA performance.

(d) *Multiparty covered agreements.* (1) A NGEP that is a party to a covered agreement that involves multiple NGEPs is not required to comply with the requirements of this part if—

(i) The NGEP has not had a CRA communication; and

(ii) No representative of the NGEP identified in paragraph (b)(4) of this section has knowledge at the time of the agreement that another NGEP that is a party to the agreement has had a CRA communication.

(2) An insured depository institution or affiliate that is a party to a covered agreement that involves multiple insured depository institutions or affiliates is not required to comply with the disclosure and annual reporting requirements in §§ 207.6 and 207.7 if—

(i) No NGEP that is a party to the agreement has had a CRA communication concerning the insured depository institution or any affiliate; and

(ii) No representative of the insured depository institution or any affiliate identified in paragraph (b)(3) of this section has knowledge at the time of the agreement that an NGEP that is a party to the agreement has had a CRA communication concerning any other insured depository institution or affiliate that is a party to the agreement.

§ 207.4 Fulfillment of the CRA.

(a) *List of factors that are in fulfillment of the CRA.* Fulfillment of the CRA, for purposes of this part, means the following list of factors—

(1) *Comments to a Federal banking agency or included in CRA public file.* Providing or refraining from providing written or oral comments or testimony to any Federal banking agency concerning the performance under the CRA of an insured depository institution or CRA affiliate that is a party to the agreement or an affiliate of a party to the agreement or written comments that are required to be included in the CRA public file of any such insured depository institution; or

(2) *Activities given favorable CRA consideration.* Performing any of the following activities if the activity is of the type that is likely to receive favorable consideration by a Federal banking agency in evaluating the performance under the CRA of the insured depository institution that is a party to the agreement or an affiliate of a party to the agreement—

(i) Home-purchase, home-improvement, small business, small farm, community development, and consumer lending, as described in § 228.22 of Regulation BB (12 CFR 228.22), including loan purchases, loan commitments, and letters of credit;

(ii) Making investments, deposits, or grants, or acquiring membership shares, that have as their primary purpose community development, as described in § 228.23 of Regulation BB (12 CFR 228.23);

(iii) Delivering retail banking services, as described in § 228.24(d) of Regulation BB (12 CFR 228.24(d));

(iv) Providing community development services, as described in § 228.24(e) of Regulation BB (12 CFR 228.24(e));

(v) In the case of a wholesale or limited-purpose insured depository institution, community development lending, including originating and purchasing loans and making loan commitments and letters of credit, making qualified investments, or providing community development services, as described in § 228.25(c) of Regulation BB (12 CFR 228.25(c));

(vi) In the case of a small insured depository institution, any lending or other activity described in § 228.26(a) of Regulation BB (12 CFR 228.26(a)); or

(vii) In the case of an insured depository institution that is evaluated on the basis of a strategic plan, any element of the strategic plan, as described in § 228.27(f) of Regulation BB (12 CFR 228.27(f)).

(b) *Agreements relating to activities of CRA affiliates.* An insured depository institution or affiliate that is a party to a covered agreement that concerns any activity described in paragraph (a) of this section of a CRA affiliate must, prior to the time the agreement is entered into, notify each NGEP that is a party to the agreement that the agreement concerns a CRA affiliate.

§ 207.5 Related agreements considered a single agreement.

The following rules must be applied in determining whether an agreement is a covered agreement under § 207.2.

(a) *Agreements entered into by same parties.* All written agreements to which an insured depository institution or an affiliate of the insured depository institution is a party shall be considered to be a single agreement if the agreements—

(1) Are entered into with the same NGEP;

(2) Were entered into within the same 12-month period; and

(3) Are each in fulfillment of the CRA.

(b) *Substantively related contracts.* All written contracts to which an insured depository institution or an affiliate of the insured depository institution is a party shall be considered to be a single agreement, without regard to whether the other parties to the contracts are the same or whether each such contract is in fulfillment of the CRA, if the contracts were negotiated in a coordinated fashion and a NGEP is a party to each contract.

§ 207.6 Disclosure of covered agreements.

(a) *Applicability date.* This section applies only to covered agreements entered into after November 12, 1999.

(b) *Disclosure of covered agreements to the public*—(1) *Disclosure required.* Each NGEP and each insured depository institution or affiliate that enters into a covered agreement must promptly make a copy of the covered agreement available to any individual or entity upon request.

(2) *Nondisclosure of confidential and proprietary information permitted.* In responding to a request for a covered agreement from any individual or entity under paragraph (b)(1) of this section, a NGEP, insured depository institution, or affiliate may withhold from public disclosure confidential or proprietary information that the party believes the relevant supervisory agency could withhold from disclosure under the Freedom of Information Act (5 U.S.C. 552 *et seq.*) (FOIA).

(3) *Information that must be disclosed.* Notwithstanding paragraph (b)(2) of this section, a party must disclose any of the following information that is contained in a covered agreement—

(i) The names and addresses of the parties to the agreement;

(ii) The amount of any payments, fees, loans, or other consideration to be made or provided by any party to the agreement;

(iii) Any description of how the funds or other resources provided under the agreement are to be used;

(iv) The term of the agreement (if the agreement establishes a term); and

(v) Any other information that the relevant supervisory agency determines is not properly exempt from public disclosure.

(4) *Request for review of withheld information.* Any individual or entity may request that the relevant supervisory agency review whether any information in a covered agreement withheld by a party must be disclosed. Any requests for agency review of withheld information must be filed, and will be