

§ 346.4

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 §§ 346.6 and 346.7 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.

§ 346.4 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 favor-

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able 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 12 CFR 345.22, 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 12 CFR 345.23;

(iii) Delivering retail banking services, as described in 12 CFR 345.24(d);

(iv) Providing community development services, as described in 12 CFR 345.24(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 12 CFR 345.25(c);

(vi) In the case of a small insured depository institution, any lending or other activity described in 12 CFR 345.26(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 12 CFR 345.27(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.

§ 346.5 Related agreements considered a single agreement.

The following rules must be applied in determining whether an agreement is a covered agreement under § 346.2.

(a) *Agreements entered into by same parties.* All written agreements to