

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****Proposed Collection; Comment Request for Form 9117**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 9117, Excise Tax Program Order Blank for Forms and Publications.

**DATES:** Written comments should be received on or before November 6, 2006, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glen P. Kirkland, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of form and instructions should be directed to Allan Hopkins, at (202) 622-6665, or at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at [Allan.M.Hopkins@irs.gov](mailto:Allan.M.Hopkins@irs.gov).

**SUPPLEMENTARY INFORMATION:** *Title:* Excise Tax Program Order Blank for Forms and Publications.

*OMB Number:* 1545-1096.

*Form Number:* 9117.

*Abstract:* Form 9117 allows taxpayers who must file Form 720 returns a systemic way to order additional tax forms and informational publications.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations.

*Estimated Number of Respondents:* 15,000.

*Estimated Time Per Respondent:* 2 minutes.

*Estimated Total Annual Burden Hours:* 500.

*The following paragraph applies to all of the collections of information covered by this notice:*

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 22, 2006.

**Glenn P. Kirkland,**

*IRS Reports Clearance Officer.*

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**BILLING CODE 4830-01-P**

**DEPARTMENT OF THE TREASURY****Office of Thrift Supervision**

[No. 2006-32]

**Community Reinvestment Act; Questions and Answers Regarding Community Reinvestment; Notice**

**AGENCY:** Office of Thrift Supervision (OTS).

**ACTION:** Notice.

**SUMMARY:** This notice revises OTS guidance relating to the Community Reinvestment Act (CRA).

**DATES:** *Effective date:* September 5, 2006.

**FOR FURTHER INFORMATION CONTACT:** Celeste Anderson, Senior Program Manager, Operation Risk, (202) 906-7990; Richard Bennett, Counsel, Regulations and Legislation Division, (202) 906-7409, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

To help savings associations meet their responsibilities under the CRA and to increase public understanding of the CRA regulations, OTS, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve (Board), and the Federal Deposit Insurance Corporation (FDIC) have previously published guidance in the form of questions and answers about the CRA regulations. That guidance is intended to provide the informal views of agency staff for use by examiners and other agency personnel, financial institutions, and the public, and is supplemented periodically. See Interagency Questions and Answers Regarding Community Reinvestment, 66 FR 36620 (July 12, 2001) (2001 Interagency Q&As).

Today, OTS is issuing questions and answers to provide additional guidance for savings associations. OTS proposed this guidance on April 12, 2006. (70 FR 18807). Today's final guidance is identical to the proposed OTS guidance and very similar to final guidance jointly issued by the OCC, Board, and FDIC on March 10, 2006 (71 FR 12424). However, as with OTS's proposal, today's final guidance only includes questions and answers that pertain to OTS's revised definition of "community development" and certain other provisions of the CRA rule that are common to all four agencies. It does not include questions and answers that pertain to additional revisions the OCC, Board, and FDIC made to their CRA rules in their August 2, 2005 rulemaking (70 FR 44256), since OTS has not adopted those revisions to date. Other minor wording differences between OTS's guidance and that of the other agencies were highlighted in the preamble to OTS's April 12, 2006 notice.

As in the 2001 Interagency Q&As, the questions and answers are grouped by the provision of the CRA regulations that they discuss and are presented in the same order as the regulatory provisions. As a result of technical changes made to the four federal banking agencies' CRA rules (70 FR 15570 (March 28, 2005)) and recent revisions to OTS's CRA rule, some of the numbering in the 2001 Interagency Q&As no longer corresponds to the appropriate sections of the revised regulation. However, in today's questions and answers, if a reference is made to an existing question and answer, the number of the existing question and answer, as published in the 2001 Interagency Q&As, is given, even if the old reference does not

accurately describe the current provision in the regulations. OTS staff is working to update the 2001 Interagency Q&As and will correct the citation references in a revised integrated document containing all the questions and answers.

## II. Comments on Proposed Questions and Answers

OTS received 21 comment letters on its proposed guidance. Two were from financial institution trade associations. Eighteen were from entities that could generally be described as organizations that advocate for community reinvestment or affordable housing or that provide or finance affordable housing. One was from an individual whose personal or professional interest in CRA was unclear and who simply recommended continued government supervision of thrift institutions for CRA compliance.

The proposed guidance was generally well received by commenters. Indeed, the most common comment from organizations was not about the proposed guidance *per se*, but about the CRA rule itself. These commenters urged OTS to make further conforming amendments to its CRA rule so that OTS's CRA rule would once again be consistent with those of the other agencies. In particular, these commenters urged OTS to adopt the intermediate small institution test and add the regulatory provision elaborating on illegal or discriminatory lending practices that count unfavorably in an institution's CRA evaluation. One also specifically urged OTS to eliminate the flexible weight option for large, retail savings associations.

One financial institution trade association and a few organizations expressed concerns about the extent to which the guidance emphasizes activities that benefit low- and moderate-income individuals. The trade association argued that the guidance overemphasizes activities that can be documented as benefiting low- and moderate-income individuals. It pointed out that in non-metropolitan areas, low- and moderate-income census tracts are not as segregated as they are in large metropolitan areas and identifying low- and moderate-income individuals who will benefit from a program is not easy. It explained that community banks conduct activities that benefit an entire community but may not have sufficient data to demonstrate particular benefit to low- and moderate-income individuals. Accordingly, it advocated that any activity that benefits an entire community should be granted CRA credit, regardless of whether it can be

demonstrated to serve low- and moderate-income individuals. It argued that, particularly with respect to activities that assist in disaster recovery, it is not appropriate to focus on whether an activity benefits low- and moderate-income areas but rather on whether it benefits the community at large.

In direct contrast, the organizations emphasized the need to keep CRA focused on low- and moderate-income families and communities. Some suggested that all the agencies' CRA questions and answers should be clearer in this emphasis.

The trade association also urged the agencies to publish a list of designated disaster areas for ease of reference, rather than making the public rely on the list published by the Federal Emergency Management Agency (FEMA) on its Web site. It also urged the agencies to continually update the lists in the guidance of community development services and qualified investments, commenting that the lists are helpful. One organization proposed a number of changes that would make OTS's questions and answers less consistent with those of the other agencies.

## III. Final Questions and Answers

Having considered the comments, OTS has decided to finalize the guidance as proposed. OTS's approach with these questions and answers is to make them as consistent as possible with those of the other agencies, given that some differences are necessary because of differences in the CRA rules themselves. Since OTS is adopting the questions and answers as proposed without any changes, it does not repeat the detailed discussion of each of the questions and answers that it included in the preamble to its April 12, 2006 proposal. Instead, OTS refers interested readers to that document.

As discussed above, the organizations who commented urged OTS to make further conforming amendments to its CRA rule so that it once again would be consistent with those of the other agencies. OTS is still considering whether to do so.

With respect to commenters who expressed opposing views on the extent to which the guidance should emphasize activities that benefit low- and moderate-income individuals, OTS believes the guidance, uniform among all agencies, strikes the appropriate balance. As discussed in Q&A sections 563e.12(g)(4)-2, 563e.12(g)(4)(ii)-2, and 563e.12(g)(4)(iii)-3, OTS generally will consider all activities that revitalize or stabilize a distressed nonmetropolitan middle-income geography or designated

disaster area, but will give greater weight to those activities that are most responsive to community needs, including needs of low- or moderate-income individuals or neighborhoods. Also, as discussed in Q&A section 563e.12(g)(4)(iii)-4, OTS will consider activities to revitalize or stabilize an underserved nonmetropolitan middle-income geography if they help to meet essential community needs, including the needs of low- or moderate-income individuals.

With regard to the comment on identifying designated disaster areas, at this time OTS believes the quickest and most reliable way for the public to determine which geographies are in designated disaster areas is to refer to FEMA's Web site [www.fema.gov](http://www.fema.gov). As explained in Q&A section 563e.12(g)(4)(ii)-1, geographies encompassed by a Major Disaster Declaration count except for those counties designated to receive only FEMA Public Assistance Emergency Work Category A (Debris Removal) and/or Category B (Emergency Protective Measures). With regard to the comment on updating the lists of community development services and qualified investments that qualify for CRA credit, OTS anticipates updating CRA guidance as appropriate.

Q&A section 563e.12(g)(4)(ii)-2 explains activities that revitalize or stabilize and designated disaster area. These include activities that provide housing, financial assistance, and services to individuals who have been displaced from designated disaster areas (e.g., where a savings association assists displaced individuals who evacuate into its assessment area).

Finally, OTS wishes to highlight one aspect of CRA credit for activities that revitalize or stabilize designated disaster areas that is not specifically discussed in the questions and answers but has been addressed in other guidance. This issue has to do with geographical limits on the availability of credit for disaster relief efforts.

In a December 20, 2005 memorandum to all chief executive officers, OTS indicated it would favorably consider activities by savings associations that revitalize or stabilize the areas stricken by Hurricanes Katrina and Rita, even if those areas are outside the association's assessment area or the broader statewide or regional area. OTS CEO Mem. #232 (December 20, 2005), available at <http://www.ots.treas.gov/docs/2/25232.pdf>. OTS indicated that while the CRA regulation does not set forth an expectation for savings associations to engage in activities outside their assessment areas or broader statewide or

regional areas, given the magnitude of these disasters and their impact on the country, if any association elected to engage in such activities, OTS would favorably consider them. That guidance was limited in application to that unique situation.

The text of OTS's revisions to the Interagency Questions and Answers Regarding Community Reinvestment follows:

*Section 563e.12(g)(4) Activities That Revitalize or Stabilize*

*Section 563e.12(g)(4)-1: Is the same definition of community development applicable to all savings associations?*

Yes, one definition of community development is applicable to all savings associations.

*Section 563e.12(g)(4)-2: Will activities that provide housing for middle-income and upper-income persons qualify for favorable consideration as community development activities when they help to revitalize or stabilize a distressed or underserved, nonmetropolitan middle-income geography or designated disaster areas?*

An activity that provides housing for middle- or upper-income individuals qualifies as an activity that revitalizes or stabilizes a distressed nonmetropolitan middle-income geography or a designated disaster area if the housing directly helps to revitalize or stabilize the community by attracting new, or retaining existing, businesses or residents and, in the case of a designated disaster area, is related to disaster recovery. OTS generally will consider all activities that revitalize or stabilize a distressed nonmetropolitan middle-income geography or designated disaster area, but will give greater weight to those activities that are most responsive to community needs, including needs of low- or moderate-income individuals or neighborhoods. For example, a loan solely to develop middle- or upper-income housing in a community in need of low- and moderate-income housing would be given very little weight if there is only a short-term benefit to low- and moderate-income individuals in the community through the creation of temporary construction jobs. (A housing-related loan is not evaluated as a "community development loan" if it has been reported or collected by the institution or its affiliate as a home mortgage loan, unless it is a multifamily dwelling loan. See 12 CFR 563e.12(h)(2)(i) and Q&A section \_\_\_\_\_.12(i) & 563e.12(h)-2.) OTS will presume that an activity revitalizes or stabilizes such a geography or area if the activity is consistent with a bona fide

government revitalization or stabilization plan or disaster recovery plan. See Q&A section \_\_\_\_\_.12(h)(4) & 563e.12(g)(4)-1 and Q&A section \_\_\_\_\_.12(i) & 563e.12(h)-4.

In *underserved* nonmetropolitan middle-income geographies, activities that provide housing for middle- and upper-income individuals may qualify as activities that revitalize or stabilize such underserved areas if the activities also provide housing for low- or moderate-income individuals. For example, a loan to build a mixed-income housing development that provides housing for middle- and upper-income individuals in an underserved nonmetropolitan middle-income geography would receive positive consideration if it also provides housing for low- or moderate-income individuals.

*Section 563e.12(g)(4)(ii) Activities That Revitalize or Stabilize Designated Disaster Areas*

*Section 563e.12(g)(4)(ii)-1: What is a "designated disaster area" and how long does the designation last?*

A "designated disaster area" is a major disaster area designated by the Federal Government. Such disaster designations include, in particular, Major Disaster Declarations administered by the Federal Emergency Management Agency (FEMA) (<http://www.fema.gov>), but exclude counties designated to receive only FEMA Public Assistance Emergency Work Category A (Debris Removal) and/or Category B (Emergency Protective Measures).

Examiners will consider savings association activities related to disaster recovery that revitalize or stabilize a designated disaster area for 36 months following the date of designation. Where there is a demonstrable community need to extend the period for recognizing revitalization or stabilization activities in a particular disaster area to assist in long-term recovery efforts, this period may be extended.

*Section 563e.12(g)(4)(ii)-2: What activities are considered to "revitalize or stabilize" a designated disaster area, and how are those activities considered?*

OTS generally will consider an activity to revitalize or stabilize a designated disaster area if it helps to attract new, or retain existing, businesses or residents and is related to disaster recovery. An activity will be presumed to revitalize or stabilize the area if the activity is consistent with a *bona fide* government revitalization or stabilization plan or disaster recovery plan. OTS generally will consider all activities relating to disaster recovery

that revitalize or stabilize a designated disaster area, but will give greater weight to those activities that are most responsive to community needs, including the needs of low- or moderate-income individuals or neighborhoods. Qualifying activities may include, for example, providing financing to help retain businesses in the area that employs local residents, including low- and moderate-income individuals; providing financing to attract a major new employer that will create long-term job opportunities, including for low- and moderate-income individuals; providing financing or other assistance for essential community-wide infrastructure, community services, and rebuilding needs; and activities that provide housing, financial assistance, and services to individuals in designated disaster areas and to individuals who have been displaced from those areas, including low- and moderate-income individuals (see, e.g., Q&A section \_\_\_\_\_.12(j) & 563e.12(i)-3; Q&A section \_\_\_\_\_.12(s) & 563e.12(r)-4; Q&A sections \_\_\_\_\_.22(b)(2) & (3)-4; Q&A sections \_\_\_\_\_.22(b)(2) & (3)-5; and Q&A section \_\_\_\_\_.24(d)(3)-1).

*Section 563e.12(g)(4)(iii) Activities That Revitalize or Stabilize Distressed or Underserved, Nonmetropolitan Middle-income Geographies*

*Section 563e.12(g)(4)(iii)-1: What criteria are used to identify distressed or underserved, nonmetropolitan middle-income geographies?*

Eligible nonmetropolitan middle-income geographies are those designated by OTS as being in distress or that could have difficulty meeting essential community needs (underserved). A particular geography could be designated as both distressed and underserved. As defined in 12 CFR 563e.12(k), a geography is a census tract delineated by the United States Bureau of the Census.

A nonmetropolitan middle-income geography will be designated as distressed if it is in a county that meets one or more of the following triggers: (1) An unemployment rate of at least 1.5 times the national average, (2) a poverty rate of 20 percent or more, or (3) a population loss of ten percent or more between the previous and most recent decennial census or a net migration loss of five percent or more over the five-year period preceding the most recent census.

A nonmetropolitan middle-income geography will be designated as underserved if it meets criteria for population size, density, and dispersion that indicate the area's population is

sufficiently small, thin, and distant from a population center that the tract is likely to have difficulty financing the fixed costs of meeting essential community needs. OTS will use as the basis for these designations the "urban influence codes," numbered "7," "10," "11," and "12," maintained by the Economic Research Service of the United States Department of Agriculture.

Data source information along with the list of eligible nonmetropolitan census tracts will be published on the Federal Financial Institutions Examination Council Web site (<http://www.ffiec.gov>).

*Section 563e.12(g)(4)(iii)-2: How often will the list of designated distressed or underserved, nonmetropolitan middle-income geographies be updated?*

The list will be reviewed and updated annually as needed. The list will be published on the Federal Financial Institutions Examination Council Web site (<http://www.ffiec.gov>).

To the extent that changes to the designated census tracts occur, OTS has determined to adopt a twelve-month lag period. This lag period will be in effect for the twelve months immediately following the date when a census tract that was designated as distressed or underserved is removed from the designated list. Revitalization or stabilization activities undertaken during the lag period will receive consideration as community development activities if they would have been considered to have a primary purpose of community development if the census tract in which they were located were still designated as distressed or underserved.

*Section 563e.12(g)(4)(iii)-3: What activities are considered to "revitalize or stabilize" a distressed nonmetropolitan middle-income geography, and how are those activities evaluated?*

An activity revitalizes or stabilizes a distressed nonmetropolitan middle-income geography if it helps to attract new, or retain existing, businesses or residents. An activity will be presumed to revitalize or stabilize the area if the activity is consistent with a bona fide government revitalization or stabilization plan. OTS generally will consider all activities that revitalize or stabilize a distressed nonmetropolitan middle-income geography, but will give greater weight to those activities that are most responsive to community needs, including needs of low- or moderate-income individuals or neighborhoods. Qualifying activities may include, for example, providing financing to attract a major new employer that will create long-term job opportunities, including

for low- and moderate-income individuals, and activities that provide financing or other assistance for essential infrastructure or facilities necessary to attract or retain businesses or residents. See Q&A section \_\_\_\_\_.12(h)(4) & 563e.12(g)(4)-1 and Q&A section \_\_\_\_\_.12(i) & 563e.12(h)-4.

*Section 563e.12(g)(4)(iii)-4: What activities are considered to "revitalize or stabilize" an underserved nonmetropolitan middle-income geography, and how are those activities evaluated?*

The regulation provides that activities revitalize or stabilize an underserved nonmetropolitan middle-income geography if they help to meet essential community needs, including needs of low- or moderate-income individuals. Activities such as financing for the construction, expansion, improvement, maintenance, or operation of essential infrastructure or facilities for health services, education, public safety, public services, industrial parks, or affordable housing, will be evaluated under these criteria to determine if they qualify for revitalization or stabilization consideration. Examples of the types of projects that qualify as meeting essential community needs, including needs of low- or moderate-income individuals, would be a new or expanded hospital that serves the entire county, including low- and moderate-income residents; an industrial park for businesses whose employees include low- or moderate-income individuals; a new or rehabilitated sewer line that serves community residents, including low- or moderate-income residents; a mixed-income housing development that includes affordable housing for low- and moderate-income families; or a renovated elementary school that serves children from the community, including children from low- and moderate-income families. Other activities in the area, such as financing a project to build a sewer line spur that connects services to a middle- or upper-income housing development while bypassing a low- or moderate-income development that also needs the sewer services, generally would not qualify for revitalization or stabilization consideration in geographies designated as underserved. However, if an underserved geography is also designated as distressed or a disaster area, additional activities may be considered to revitalize or stabilize the geography, as explained in Q&A sections 563e.12(g)(4)(ii)-2 and 563e.12(g)(4)(iii)-3.

*Section 563e.12(i) Community Development Service*

*Section 563e.12(i)-3: What are examples of community development services?*

Examples of community development services include, but are not limited to, the following:

- Providing financial services to low- and moderate-income individuals through branches and other facilities located in low- and moderate-income areas, unless the provision of such services has been considered in the evaluation of a saving association's retail banking services under 12 CFR 563e.24(d);
  - Providing technical assistance on financial matters to nonprofit, tribal or government organizations serving low- and moderate-income housing or economic revitalization and development needs;
  - Providing technical assistance on financial matters to small businesses or community development organizations, including organizations and individuals who apply for loans or grants under the Federal Home Loan Banks' Affordable Housing Program;
  - Lending employees to provide financial services for organizations facilitating affordable housing construction and rehabilitation or development of affordable housing;
  - Providing credit counseling, home-buyer and home-maintenance counseling, financial planning or other financial services education to promote community development and affordable housing;
  - Establishing school savings programs and developing or teaching financial education curricula for low- or moderate-income individuals;
  - Providing electronic benefits transfer and point of sale terminal systems to improve access to financial services, such as by decreasing costs, for low- or moderate-income individuals;
  - Providing international remittance services that increase access to financial services by low- and moderate-income persons (for example, by offering reasonably priced international remittance services in connection with a low-cost account); and
  - Providing other financial services with the primary purpose of community development, such as low-cost bank accounts, including "Electronic Transfer Accounts" provided pursuant to the Debt Collection Improvement Act of 1996, or free government check cashing that increases access to financial services for low- or moderate-income individuals.
- Examples of technical assistance activities that might be provided to

community development organizations include:

- Serving on a loan review committee;
- Developing loan application and underwriting standards;
- Developing loan processing systems;
- Developing secondary market vehicles or programs;
- Assisting in marketing financial services, including development of advertising and promotions, publications, workshops and conferences;
- Furnishing financial services training for staff and management;
- Contributing accounting/bookkeeping services; and
- Assisting in fund raising, including soliciting or arranging investments.

*Section 563e.12(t) Qualified Investment*

*Section 563e.12(t)-1: When evaluating a qualified investment, what consideration will be given for prior-period investments?*

When evaluating a savings association's qualified investment record, examiners will consider investments that were made prior to the current examination, but that are still outstanding. Qualitative factors will affect the weighting given to both current period and outstanding prior-period qualified investments. For example, a prior-period outstanding investment with a multi-year impact that addresses assessment area community development needs may receive more consideration than a current period investment of a comparable amount that is less responsive to area community development needs.

*Section 563e.12(t)-4: What are examples of qualified investments?*

Examples of qualified investments include, but are not limited to,

investments, grants, deposits or shares in or to:

- Financial intermediaries (including, Community Development Financial Institutions (CDFIs), Community Development Corporations (CDCs), minority- and women-owned financial institutions, community loan funds, and low-income or community development credit unions) that primarily lend or facilitate lending in low- or moderate-income areas or to low- and moderate-income individuals in order to promote community development, such as a CDFI that promotes economic development on an Indian reservation;
- Organizations engaged in affordable housing rehabilitation and construction, including multifamily rental housing;
- Organizations, including for example, Small Business Investment Companies (SBICs), specialized SBICs, and Rural Business Investment Companies (RBICs), that promote economic development by financing small businesses or small farms;
- Facilities that promote community development in low- and moderate-income areas for low- and moderate-income individuals, such as youth programs, homeless centers, soup kitchens, health care facilities, battered women's centers, and alcohol and drug recovery centers;
- Projects eligible for low-income housing tax credits;
- State and municipal obligations, such as revenue bonds, that specifically support affordable housing or other community development;
- Not-for-profit organizations serving low- and moderate-income housing or other community development needs, such as counseling for credit, home-ownership, home maintenance, and other financial services education; and
- Organizations supporting activities essential to the capacity of low- and moderate-income individuals or

geographies to utilize credit or to sustain economic development, such as, for example, day care operations and job training programs that enable people to work.

*Section 563e.26 Small Savings Association Performance Standards*

*Section 563e.26-1: When evaluating a small savings association's performance, will examiners consider, at the institution's request, retail and community development loans originated or purchased by affiliates, qualified investments of affiliates, or community development services of affiliates?*

Yes. However, a small institution that elects to have examiners consider affiliate activities must maintain sufficient information that the examiners may evaluate these activities under the appropriate performance criteria and ensure that the activities are not claimed by another institution. The constraints applicable to affiliate activities claimed by large institutions also apply to small institutions. See Q&A section \_\_.22(c)(2) and related guidance provided to large institutions regarding affiliate activities. Examiners will not include affiliate lending in calculating the percentage of loans and, as appropriate, other lending-related activities located in a savings association's assessment area.

This concludes the text of OTS's revisions to the Interagency Questions and Answers Regarding Community Reinvestment.

By the Office of Thrift Supervision.

Dated: August 23, 2006.

**John M. Reich,**  
Director.

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