

an open-end transaction, when the consumer becomes obligated under the plan. (For the purposes of this assumption, the initial amount of the credit is the principal loan amount less any costs to the consumer under section 226.33(c)(1).)

(b)(10) *Assumption for variable-rate reverse mortgage transactions.*

1. *Initial discount or premium rate.* Where a variable-rate reverse mortgage transaction includes an initial discount or premium rate, the creditor should apply the same rules for calculating the total annual loan cost rate as are applied when calculating the annual percentage rate for a loan with an initial discount or premium rate (see the commentary to § 226.17(c)).

(d) *Reverse mortgage model form and sample form.*

(d)(2) *Sample form.*

1. *General.* The “clear and conspicuous” standard for reverse mortgage disclosures does not require disclosures to be printed in any particular type size. Disclosures may be made on more than one page, and use both the front and the reverse sides, as long as the pages constitute an integrated document and the table disclosing the total annual loan cost rates is on a single page.

APPENDIX L—ASSUMED LOAN PERIODS FOR COMPUTATIONS OF TOTAL ANNUAL LOAN COST RATES

1. *General.* The life expectancy figures used in appendix L are those found in the U.S. Decennial Life Tables for women, as rounded to the nearest whole year and as published by the U. S. Department of Health and Human Services. The figures contained in appendix L must be used by creditors for all consumers (men and women). Appendix L will be revised periodically by the Board to incorporate revisions to the figures made in the Decennial Tables.

APPENDIX O—ILLUSTRATIVE WRITTEN SOURCE DOCUMENTS FOR HIGHER-PRICED MORTGAGE LOAN APPRAISAL RULES

1. *Title commitment report.* The “title commitment report” is a document from a title insurance company describing the property interest and status of its title, parties with interests in the title and the nature of their claims, issues with the title that must be resolved prior to closing of the transaction between the parties to the transfer, amount and disposition of the premiums, and endorsements on the title policy. This document is issued by the title insurance company prior to the company’s issuance of an actual title insurance policy to the property’s transferee and/or creditor financing the transaction. In different jurisdictions, this instrument may be referred to by dif-

ferent terms, such as a title commitment, title binder, title opinion, or title report.

[46 FR 50288, Oct. 9, 1981]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting supplement I to part 226, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.

PART 228—COMMUNITY REINVESTMENT

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- APPENDIX F TO PART 228—CRA NOTICE
- APPENDIX G TO PART 228—COMMUNITY REINVESTMENT ACT (REGULATION BB)

AUTHORITY: 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 *et seq.*

SOURCE: Reg. BB, 89 FR 7188, Feb. 1, 2024, unless otherwise noted.

Subpart A—General

§ 228.11 Authority, purposes, and scope.

(a) *Authority.* The Board of Governors of the Federal Reserve System (the Board) issues this part to implement the Community Reinvestment Act (12 U.S.C. 2901 *et seq.*) (CRA). The regulations comprising this part are issued under the authority of the CRA and under the provisions of the United States Code authorizing the Board:

(1) To conduct examinations of State-chartered banks that are members of the Federal Reserve System (12 U.S.C. 325);

(2) To conduct examinations of bank holding companies and their subsidiaries (12 U.S.C. 1844) and savings and loan holding companies and their subsidiaries (12 U.S.C. 1467a); and

(3) To consider applications for:

(i) Domestic branches by State member banks (12 U.S.C. 321);

(ii) Mergers in which the resulting bank would be a State member bank (12 U.S.C. 1828(c));

(iii) Formations of, acquisitions of banks by, and mergers of, bank holding companies (12 U.S.C. 1842);

(iv) The acquisition of savings associations by bank holding companies (12 U.S.C. 1843); and

(v) Formations of, acquisitions of savings associations by, conversions of, and mergers of, savings and loan holding companies (12 U.S.C. 1467a).

(b) *Purposes.* This part implements the requirement in the CRA that the Board assess a bank's record of helping to meet the credit needs of the local communities in which the bank is chartered, consistent with the safe and sound operation of the bank, and to take this record into account in the agency's evaluation of an application for a deposit facility by the bank. Accordingly, this part:

(1) Establishes the framework and criteria by which the Board assesses a bank's record of responding to the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank; and

(2) Provides that the Board takes that record into account in considering certain applications.

(c) *Scope*—(1) *General.* This part applies to all banks except as provided in paragraph (c)(3) of this section.

(2) *Foreign bank acquisitions.* This part also applies to an uninsured State branch (other than a limited branch) of a foreign bank that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)). The terms "State branch" and "foreign bank" have the same meanings as given to those terms in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*); the term "uninsured State branch" means a State branch the deposits of which are not insured by the Federal Deposit Insurance Corporation; the term "limited branch" means a State branch that accepts only deposits that are permissible for a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*).

(3) *Certain exempt banks.* This part does not apply to banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business,

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other than as incident to their specialized operations and done on an accommodation basis. These banks include bankers' banks, as defined in 12 U.S.C. 24 (Seventh), and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents.

[Reg. BB, 89 FR 7188, Feb. 1, 2024, as amended at 89 FR 22068, Mar. 29, 2024]

§ 228.12 Definitions.

For purposes of this part, the following definitions apply:

Affiliate means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. 1841(a)(2), as implemented by the Board in 12 CFR part 225, and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

Affordable housing means activities described in § 228.13(b).

Area median income means:

(1) The median family income for the MSA (as defined in this section), if an individual, family, household, or census tract is located in an MSA that has not been subdivided into metropolitan divisions, or for the metropolitan division, if an individual, family, household, or census tract is located in an MSA that has been subdivided into metropolitan divisions; or

(2) The statewide nonmetropolitan median family income, if an individual, family, household, or census tract is located in a nonmetropolitan area.

Assets means a bank's total assets as reported in Schedule RC of the Consolidated Reports of Condition and Income as filed under 12 U.S.C. 161, 324, 1464, or 1817, as applicable (Call Report), or Schedule RAL of the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks as filed under 12 U.S.C. 1817(a), 3102(b), or 3105(c)(2), as applicable.

Bank means a State member bank as that term is defined in section 3(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(d)(2)), except as provided in § 228.11(c)(3), and includes an uninsured

State branch (other than a limited branch) of a foreign bank described in § 228.11(c)(2).

Branch means a staffed banking facility, whether shared or unshared, that the Board approved or authorized as a branch and that is open to, and accepts deposits from, the general public.

Census tract means a census tract delineated by the U.S. Census Bureau.

Closed-end home mortgage loan has the same meaning given to the term "closed-end mortgage loan" in 12 CFR 1003.2, excluding loan transactions set forth in 12 CFR 1003.3(c)(1) through (10) and (13) and multifamily loans as defined in this section.

Combination of loan dollars and loan count means, when applied to a particular ratio, the average of:

(1) The ratio calculated using loans measured in dollar volume; and

(2) The ratio calculated using loans measured in number of loans.

Community development means activities described in § 228.13(b) through (1).

Community Development Financial Institution (CDFI) means an entity that satisfies the definition in section 103(5)(A) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)) and is certified by the U.S. Department of the Treasury's Community Development Financial Institutions Fund as meeting the requirements set forth in 12 CFR 1805.201(b).

Community development investment means a lawful investment, including a legally binding commitment to invest, that is reported on Schedule RC–L of the Call Report or on Schedule L of the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, as applicable; deposit; membership share; grant; or monetary or in-kind donation that supports community development, as described in § 228.13.

Community development loan means a loan, including a legally binding commitment to extend credit, such as a standby letter of credit, that supports community development, as described in § 228.13. A community development loan does not include any home mortgage loan considered under the Retail

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Lending Test in § 228.22, with the exception of one-to-four family home mortgage loans for rental housing with affordable rents in nonmetropolitan areas under § 228.13(b)(3).

Community development services means the performance of volunteer services by a bank's or its affiliate's board members or employees, performed on behalf of the bank, where those services:

(1) Support community development, as described in § 228.13; and

(2) Are related to the provision of financial services, which include credit, deposit, and other personal and business financial services, or services that reflect a board member's or an employee's expertise at the bank or affiliate, such as human resources, information technology, and legal services.

Consumer loan means a loan to one or more individuals for household, family, or other personal expenditures and that is one of the following types of loans:

(1) *Automobile loan*, as reported in Schedule RC-C of the Call Report;

(2) *Credit card loan*, as reported as "credit card" in Schedule RC-C of the Call Report;

(3) *Other revolving credit plan*, as reported in Schedule RC-C of the Call Report; and

(4) *Other consumer loan*, as reported in Schedule RC-C of the Call Report.

County means any county, county equivalent, or statistically equivalent entity as used by the U.S. Census Bureau pursuant to title 13 of the U.S. Code.

Deposit location means:

(1) For banks that collect, maintain, and report deposits data as provided in § 228.42, the address on file with the bank for purposes of the Customer Identification Program required by 31 CFR 1020.220 or another documented address at which the depositor resides or is located.

(2) For banks that do not collect, maintain, and report deposits data as provided in § 228.42, the county of the bank facility to which the deposits are assigned in the FDIC's Summary of Deposits.

Depository institution means any institution subject to the CRA, as described in § 228.11 and 12 CFR 25.11 and 345.11.

Deposits has the following meanings:

(1) For banks that collect, maintain, and report deposits data as provided in § 228.42, *deposits* means deposits in domestic offices of individuals, partnerships, and corporations, and of commercial banks and other depository institutions in the United States as defined in Schedule RC-E of the Call Report; deposits does not include U.S. Government deposits, State and local government deposits, domestically held deposits of foreign governments or official institutions, or domestically held deposits of foreign banks or other foreign financial institutions; and

(2) For banks that do not collect, maintain, and report deposits data as provided in § 228.42, *deposits* means a bank's deposits as reported in the FDIC's Summary of Deposits as required under 12 CFR 304.3(c).

Digital delivery system means a channel through which banks offer retail banking services electronically, such as online banking or mobile banking.

Distressed or underserved nonmetropolitan middle-income census tract means a census tract publicly designated as such by the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC), based on the criteria in paragraphs (1) and (2) of this definition, compiled in a list, and published annually by the Federal Financial Institutions Examination Council (FFIEC).

(1) A nonmetropolitan middle-income census tract is designated as distressed if it is in a county that meets one or more of the following criteria:

(i) An unemployment rate of at least 1.5 times the national average;

(ii) A poverty rate of 20 percent or more; or

(iii) A population loss of 10 percent or more between the previous and most recent decennial census or a net population loss of five percent or more over the five-year period preceding the most recent census.

(2) A nonmetropolitan middle-income census tract is designated as underserved if it meets the 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 census tract is likely to have difficulty financing

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the fixed costs of meeting essential community needs. The criteria for these designations are based on the Urban Influence Codes established by the U.S. Department of Agriculture's Economic Research Service numbered "7," "10," "11," or "12."

Evaluation period means the period, generally in calendar years, during which a bank conducted the activities that the Board evaluates in a CRA examination, in accordance with the Board's guidelines and procedures.

Facility-based assessment area means a geographic area delineated pursuant to § 228.16.

High Opportunity Area means an area identified by the Federal Housing Finance Agency for purposes of the Duty to Serve Underserved Markets regulation in 12 CFR part 1282, subpart C.

Home mortgage loan means a closed-end home mortgage loan or an open-end home mortgage loan as these terms are defined in this section.

Income level includes:

(1) *Low-income*, which means:

(i) For individuals, families, or households, income that is less than 50 percent of the area median income; or

(ii) For a census tract, a median family income that is less than 50 percent of the area median income.

(2) *Moderate-income*, which means:

(i) For individuals, families, or households, income that is at least 50 percent and less than 80 percent of the area median income; or

(ii) For a census tract, a median family income that is at least 50 percent and less than 80 percent of the area median income.

(3) *Middle-income*, which means:

(i) For individuals, families, or households, income that is at least 80 percent and less than 120 percent of the area median income; or

(ii) For a census tract, a median family income that is at least 80 percent and less than 120 percent of the area median income.

(4) *Upper-income*, which means:

(i) For individuals, families, or households, income that is 120 percent or more of the area median income; or

(ii) For a census tract, a median family income that is 120 percent or more of the area median income.

Intermediate bank means a bank, excluding a bank designated as a limited purpose bank pursuant to § 228.26, that had assets of at least \$600 million as of December 31 in both of the prior two calendar years and less than \$2 billion as of December 31 in either of the prior two calendar years. The Board adjusts and publishes the figures in this definition annually, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million.

Large bank means a bank, excluding a bank designated as a limited purpose bank pursuant to § 228.26, that had assets of at least \$2 billion as of December 31 in both of the prior two calendar years. The Board adjusts and publishes the figure in this definition annually, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million.

Large depository institution means any depository institution, excluding depository institutions designated as limited purpose banks or savings associations pursuant to 12 CFR 25.26(a) and depository institutions designated as limited purpose banks pursuant to § 228.26(a) or 12 CFR 345.26(a), that meets the asset size threshold of a large bank.

Limited purpose bank means a bank that is not in the business of extending closed-end home mortgage loans, small business loans, small farm loans, or automobile loans evaluated under § 228.22 to retail customers, except on an incidental and accommodation basis, and for which a designation as a limited purpose bank is in effect, pursuant to § 228.26.

Loan location. A loan is located as follows:

(1) A consumer loan is located in the census tract where the borrower resides at the time that the borrower submits the loan application;

(2) A home mortgage loan or a multi-family loan is located in the census

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tract where the property securing the loan is located; and

(3) A small business loan or small farm loan is located in the census tract where the main business facility or farm is located or where the borrower will otherwise apply the loan proceeds, as indicated by the borrower.

Low-cost education loan means any private education loan, as defined in section 140(a)(7) of the Truth in Lending Act (15 U.S.C. 1650(a)(8)) (including a loan under a State or local education loan program), originated by the bank for a student at an "institution of higher education," as generally defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002), implemented in 34 CFR part 600, with interest rates and fees no greater than those of comparable education loans offered directly by the U.S. Department of Education. Such rates and fees are specified in section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e).

Low-income credit union (LICU) has the same meaning given to that term in 12 CFR 701.34.

Low-Income Housing Tax Credit (LIHTC) means a Federal tax credit for housing persons of low income pursuant to section 42 of the Internal Revenue Code of 1986 (26 U.S.C. 42).

Major product line means a product line that the Board evaluates in a particular Retail Lending Test Area, pursuant to § 228.22(d)(2) and paragraphs II.b.1 and II.b.2 of appendix A to this part.

Majority automobile lender means a bank for which more than 50 percent of its home mortgage loans, multifamily loans, small business loans, small farm loans, and automobile loans were automobile loans, as determined pursuant to paragraph II.b.3 of appendix A to this part.

Metropolitan area means any MSA.

Metropolitan division has the same meaning as that term is defined by the Director of the Office of Management and Budget.

Military bank means a bank whose business predominantly consists of serving the needs of military personnel who serve or have served in the U.S. Armed Forces (including the U.S. Air Force, U.S. Army, U.S. Coast Guard,

U.S. Marine Corps, U.S. Navy, and U.S. Space Force) or their dependents. A bank whose business predominantly consists of serving the needs of military personnel or their dependents means a bank whose most important customer group is military personnel or their dependents.

Minority depository institution (MDI) means:

(1) For purposes of activities conducted pursuant to 12 U.S.C. 2907(a), "minority depository institution" as defined in 12 U.S.C. 2907(b)(1); and

(2) For all other purposes:

(i) "Minority depository institution" as defined in 12 U.S.C. 2907(b)(1);

(ii) "Minority depository institution" as defined in section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 1463 note); or

(iii) A depository institution considered to be a minority depository institution by the appropriate Federal banking agency. For purposes of this paragraph (2)(iii), "appropriate Federal banking agency" has the meaning given to it in 12 U.S.C. 1813(q).

Mission-driven nonprofit organization means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from taxation under section 501(a) of the Internal Revenue Code that benefits or serves primarily low- or moderate-income individuals or communities, small businesses, or small farms.

MSA means a metropolitan statistical area delineated by the Director of the Office of Management and Budget, pursuant to 44 U.S.C. 3504(e)(3) and (10), 31 U.S.C. 1104(d), and Executive Order 10253 (June 11, 1951).

Multifamily loan means an extension of credit that is secured by a lien on a "multifamily dwelling" as defined in 12 CFR 1003.2.

Multistate MSA means an MSA that crosses a State boundary.

Nationwide area means the entire United States and its territories.

Native Land Area means:

(1) All land within the limits of any Indian reservation under the jurisdiction of the United States, as described in 18 U.S.C. 1151(a);

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(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State, as described in 18 U.S.C. 1151(b);

(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same, as defined in 18 U.S.C. 1151(c);

(4) Any land held in trust by the United States for tribes or Native Americans or tribally-held restricted fee land;

(5) Reservations established by a State government for a tribe or tribes recognized by the State;

(6) Any Native village, as defined in 43 U.S.C. 1602(c), in Alaska;

(7) Lands that have the status of Hawaiian Home Lands as defined in section 204 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), as amended;

(8) Areas defined by the U.S. Census Bureau as Alaska Native Village Statistical Areas, Oklahoma Tribal Statistical Areas, Tribal-Designated Statistical Areas, or American Indian Joint-Use Areas; and

(9) Land areas of State-recognized Indian tribes and heritage groups that are defined and recognized by individual States and included in the U.S. Census Bureau's annual Boundary and Annexation Survey.

New Markets Tax Credit (NMTC) means a Federal tax credit pursuant to section 45D of the Internal Revenue Code of 1986 (26 U.S.C. 45D).

Nonmetropolitan area means any area that is not located in an MSA.

Open-end home mortgage loan has the same meaning as given to the term "open-end line of credit" in 12 CFR 1003.2, excluding loan transactions set forth in 12 CFR 1003.3(c)(1) through (10) and (13) and multifamily loans as defined in this section.

Operations subsidiary means an organization designed to serve, in effect, as a separately incorporated department of the bank, performing, at locations at which the bank is authorized to engage in business, functions that the bank is empowered to perform directly.

Other delivery system means a channel, other than branches, remote services facilities, or digital delivery systems, through which banks offer retail banking services.

Outside retail lending area means the geographic area delineated pursuant to § 228.18.

Persistent poverty county means a county that has had poverty rates of 20 percent or more for 30 years, as publicly designated by the Board, FDIC, and OCC, compiled in a list, and published annually by the FFIEC.

Product line means a bank's loans in one of the following, separate categories in a particular Retail Lending Test Area:

- (1) Closed-end home mortgage loans;
- (2) Small business loans;
- (3) Small farm loans; and

(4) Automobile loans, if a bank is a majority automobile lender or opts to have its automobile loans evaluated pursuant to § 228.22.

Remote service facility means an automated, virtually staffed, or unstaffed banking facility owned or operated by, or operated exclusively for, a bank, such as an automated teller machine (ATM), interactive teller machine, cash dispensing machine, or other remote electronic facility, that is open to the general public and at which deposits are accepted, cash dispersed, or money lent.

Reported loan means:

(1) A home mortgage loan or a multifamily loan reported by a bank pursuant to the Home Mortgage Disclosure Act, as implemented by 12 CFR part 1003; or

(2) A small business loan or a small farm loan reported by a bank pursuant to § 228.42.

Retail banking products means credit and deposit products or programs that facilitate a lending or depository relationship between the bank and consumers, small businesses, or small farms.

Retail banking services means retail financial services provided by a bank to consumers, small businesses, or small farms and include a bank's systems for delivering retail financial services.

Retail lending assessment area means a geographic area delineated pursuant to § 228.17.

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Retail Lending Test Area means a facility-based assessment area, a retail lending assessment area, or an outside retail lending area.

Small bank means a bank, excluding a bank designated as a limited purpose bank pursuant to § 228.26, that had assets of less than \$600 million as of December 31 in either of the prior two calendar years. The Board adjusts and publishes the dollar figure in this definition annually based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million.

Small business means a business, other than a farm, that had gross annual revenues for its preceding fiscal year of \$5 million or less.

Small business loan means, notwithstanding the definition of “small business” in this section, a loan included in “loans to small businesses” as reported in Schedule RC–C of the Call Report.

Small farm means a farm that had gross annual revenues for its preceding fiscal year of \$5 million or less.

Small farm loan means, notwithstanding the definition of “small farm” in this section, a loan included in “loans to small farms” as reported in Schedule RC–C of the Call Report.

State means a U.S. State or territory, and includes the District of Columbia.

Targeted census tract means:

- (1) A low-income census tract or a moderate-income census tract; or
- (2) A distressed or underserved non-metropolitan middle-income census tract.

Tribal government means the recognized governing body of any Indian or Alaska Native tribe, band, nation, pueblo, village, community, component band, or component reservation, individually identified (including parenthetically) in the list most recently published pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).

Women’s depository institution (WDI) means “women’s depository institution” as defined in 12 U.S.C. 2907(b)(2).

EFFECTIVE DATE NOTE: At 89 FR 7188, Feb. 1, 2024, § 228.12 was amended by revising paragraph (3) in the definition of “Loan loca-

tion”; revising paragraph (2) in the definition of “Reported loan”; and revising the definitions of “Small business”, “Small business loan”, “Small farm”, and “Small farm loan”, effective date delayed indefinitely. For the convenience of the user, the revised text is set forth as follows:

§ 228.12 Definitions.

* * * * *

Loan location. * * *

(3) A small business loan or small farm loan is located in the census tract reported pursuant to subpart B of 12 CFR part 1002.

* * * * *

Reported loan means: * * *

(2) A small business loan or small farm loan reported by a bank pursuant to subpart B of 12 CFR part 1002.

* * * * *

Small business means a small business, other than a small farm, as defined in section 704B of the Equal Credit Opportunity Act (15 U.S.C. 1691c–2) and implemented by 12 CFR 1002.106.

Small business loan means a loan to a small business as defined in this section.

Small farm means a small business, as defined in section 704B of the Equal Credit Opportunity Act (15 U.S.C. 1691c–2) and implemented by 12 CFR 1002.106, and that is identified with one of the 3-digit North American Industry Classification System (NAICS) codes 111–115.

Small farm loan means a loan to a small farm as defined in this section.

* * * * *

§ 228.13 Consideration of community development loans, community development investments, and community development services.

As provided in paragraph (a) of this section, a bank may receive consideration for a loan, investment, or service that supports community development as described in paragraphs (b) through (l) of this section.

(a) *Full and partial credit for community development loans, community development investments, and community development services*—(1) *Full credit.* A bank will receive credit for its entire loan, investment, or service if it meets the majority standard in paragraph (a)(1)(i) of this section; meets the bona fide intent standard in paragraph

(a)(1)(ii) of this section; involves an MDI, WDI, LICU, or CDFI as provided in paragraph (a)(1)(iii) of this section; or involves a LIHTC as provided in paragraph (a)(1)(iv) of this section.

(i) *Majority standard.* A loan, investment, or service meets the majority standard if:

(A) The loan, investment, or service supports community development under one or more of paragraphs (b) through (l) of this section; and

(B)(1) For loans, investments, or services supporting community development under paragraphs (b)(1) through (3) of this section, the majority of the housing units are affordable to low- or moderate-income individuals, families, or households;

(2) For loans, investments, or services supporting community development under paragraphs (b)(4) and (5) and (d) of this section, the majority of the beneficiaries are, or the majority of dollars benefit or serve, low- or moderate-income individuals, families, or households;

(3) For loans, investments, or services supporting community development under paragraph (c) of this section, the majority of the beneficiaries are, or the majority of dollars benefit or serve, small businesses or small farms;

(4) For loans, investments, or services supporting community development under paragraphs (e), (f), (g), and (i) of this section, the majority of the beneficiaries are, or the majority of dollars benefit or serve, residents of targeted census tracts;

(5) For loans, investments, or services supporting community development under paragraph (h) of this section, the majority of the beneficiaries are, or the majority of dollars benefit or serve, residents of designated disaster areas;

(6) For loans, investments, or services supporting community development under paragraph (j) of this section, the majority of the beneficiaries are, or the majority of dollars benefit or serve, residents of Native Land Areas; or

(7) For loans, investments, or services supporting community development under paragraph (l) of this section, the loan, investment, or service

primarily supports community development under paragraph (l) of this section.

(ii) *Bona fide intent standard.* A loan, investment, or service meets the bona fide intent standard if:

(A) The housing units, beneficiaries, or proportion of dollars necessary to meet the majority standard are not reasonably quantifiable pursuant to paragraph (a)(1)(i) of this section;

(B) The loan, investment, or service has the express, bona fide intent of community development under one or more of paragraphs (b) through (l) of this section; and

(C) The loan, investment, or service is specifically structured to achieve community development under one or more of paragraphs (b) through (l) of this section.

(iii) *MDI, WDI, LICU, or CDFI.* The loan, investment, or service supports community development under paragraph (k) of this section.

(iv) *LIHTC.* The loan, investment, or service supports LIHTC-financed affordable housing under paragraph (b)(1) of this section.

(2) *Partial credit.* If a loan, investment, or service supporting affordable housing under paragraph (b)(1) of this section does not meet the majority standard under paragraph (a)(1)(i) of this section, a bank will receive partial credit for the loan, investment, or service in proportion to the percentage of total housing units in any development that are affordable to low- or moderate-income individuals.

(b) *Affordable housing.* Affordable housing comprises the following:

(1) *Rental housing in conjunction with a government affordable housing plan, program, initiative, tax credit, or subsidy.* Rental housing for low- or moderate-income individuals purchased, developed, financed, rehabilitated, improved, or preserved in conjunction with a Federal, State, local, or tribal government affordable housing plan, program, initiative, tax credit, or subsidy.

(2) *Multifamily rental housing with affordable rents.* Multifamily rental housing purchased, developed, financed, rehabilitated, improved, or preserved if:

(i) For the majority of units, the monthly rent as underwritten by the

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bank, reflecting post-construction or post-renovation changes as applicable, does not exceed 30 percent of 80 percent of the area median income; and

(ii) One or more of the following additional criteria are met:

(A) The housing is located in a low- or moderate-income census tract;

(B) The housing is located in a census tract in which the median income of renters is low- or moderate-income and the median rent does not exceed 30 percent of 80 percent of the area median income;

(C) The housing is purchased, developed, financed, rehabilitated, improved, or preserved by any nonprofit organization with a stated mission of, or that otherwise directly supports, providing affordable housing; or

(D) The bank provides documentation that a majority of the housing units are occupied by low- or moderate-income individuals, families, or households.

(3) *One-to-four family rental housing with affordable rents in a nonmetropolitan area.* One-to-four family rental housing purchased, developed, financed, rehabilitated, improved, or preserved in a nonmetropolitan area that meets the criteria in paragraph (b)(2) of this section.

(4) *Affordable owner-occupied housing for low- or moderate-income individuals.* Assistance for low- or moderate-income individuals to obtain, maintain, rehabilitate, or improve affordable owner-occupied housing, excluding loans by a bank directly to one or more owner-occupants of such housing.

(5) *Mortgage-backed securities.* Purchases of mortgage-backed securities where a majority of the underlying loans are not loans that the bank originated or purchased and:

(i) Are home mortgage loans made to low- or moderate-income individuals; or

(ii) Are loans that finance multi-family affordable housing that meets the requirements of paragraph (b)(1) of this section.

(c) *Economic development.* Economic development comprises:

(1) *Government-related support for small businesses and small farms.* Loans, investments, and services undertaken in conjunction or in syndication with

Federal, State, local, or tribal government plans, programs, or initiatives that support small businesses or small farms, as follows:

(i) *Loans, investments, and services other than direct loans to small businesses and small farms.* Loans, investments, and services that support small businesses or small farms in accordance with how small businesses and small farms are defined in the applicable plan, program, or initiative, but excluding loans by a bank directly to small businesses or small farms (either as defined in a government plan, program, or initiative or in § 228.12). If the government plan, program, or initiative does not identify a standard for the size of the small businesses or small farms supported by the plan, program, or initiative, the small businesses or small farms supported must meet the definition of small business or small farm in § 228.12. Loans to, investments in, or services provided to the following are presumed to meet the criteria of this paragraph (c)(1)(i):

(A) Small Business Investment Company (13 CFR part 107);

(B) New Markets Venture Capital Company (13 CFR part 108);

(C) Qualified Community Development Entity (26 U.S.C. 45D(c)); or

(D) U.S. Department of Agriculture Rural Business Investment Company (7 CFR 4290.50).

(ii) *Direct loans to small businesses and small farms.* Loans by a bank directly to businesses or farms, including, but not limited to, loans in conjunction or syndicated with a U.S. Small Business Administration (SBA) Certified Development Company (13 CFR 120.10) or Small Business Investment Company (13 CFR part 107), that meet the following size and purpose criteria:

(A) *Size eligibility standard.* Loans that may be considered under paragraph (c)(1)(ii) of this section must be to businesses and farms that meet the size eligibility standards of the U.S. Small Business Administration Development Company (13 CFR 121.301) or Small Business Investment Company (13 CFR 121.301 and 121.201) programs or that meet the definition of small business or small farm in § 228.12.

(B) *Purpose test.* Loans that may be considered under paragraph (c)(1)(ii) of

this section must have the purpose of promoting permanent job creation or retention for low- or moderate-income individuals or in low- or moderate-income census tracts.

(2) *Intermediary support for small businesses and small farms.* Loans, investments, or services provided to intermediaries that lend to, invest in, or provide assistance, such as financial counseling, shared space, technology, or administrative assistance, to small businesses or small farms.

(3) *Other support for small businesses and small farms.* Assistance, such as financial counseling, shared space, technology, or administrative assistance, to small businesses or small farms.

(d) *Community supportive services.* Community supportive services are activities that assist, benefit, or contribute to the health, stability, or well-being of low- or moderate-income individuals, such as childcare, education, workforce development and job training programs, health services programs, and housing services programs. Community supportive services include, but are not limited to, activities that:

(1) Are conducted with a mission-driven nonprofit organization;

(2) Are conducted with a nonprofit organization located in and serving low- or moderate-income census tracts;

(3) Are conducted in a low- or moderate-income census tract and targeted to the residents of the census tract;

(4) Are offered to individuals at a workplace where the majority of employees are low- or moderate-income, based on U.S. Bureau of Labor Statistics data for the average wage for workers in that particular occupation or industry;

(5) Are provided to students or their families through a school at which the majority of students qualify for free or reduced-price meals under the U.S. Department of Agriculture's National School Lunch Program;

(6) Primarily benefit or serve individuals who receive or are eligible to receive Medicaid;

(7) Primarily benefit or serve individuals who receive or are eligible to receive Federal Supplemental Security Income, Social Security Disability In-

surance, or support through other Federal disability assistance programs; or

(8) Primarily benefit or serve recipients of government assistance plans, programs, or initiatives that have income qualifications equivalent to, or stricter than, the definitions of low- and moderate-income as defined in this part. Examples include, but are not limited to, the U.S. Department of Housing and Urban Development's section 8, 202, 515, and 811 programs or the U.S. Department of Agriculture's section 514, 516, and Supplemental Nutrition Assistance programs.

(e) *Revitalization or stabilization*—(1) *In general.* Revitalization or stabilization comprises activities that support revitalization or stabilization of targeted census tracts, including adaptive reuse of vacant or blighted buildings, brownfield redevelopment, support of a plan for a business improvement district or main street program, or any other activity that supports revitalization or stabilization, and that:

(i) Are undertaken in conjunction with a plan, program, or initiative of a Federal, State, local, or tribal government or a mission-driven nonprofit organization, where the plan, program, or initiative includes a focus on revitalizing or stabilizing targeted census tracts;

(ii) Benefit or serve residents, including low- or moderate-income individuals, of targeted census tracts; and

(iii) Do not directly result in the forced or involuntary relocation of low- or moderate-income individuals in targeted census tracts.

(2) *Mixed-use revitalization or stabilization project.* Projects to revitalize or stabilize a targeted census tract that include both commercial and residential components qualify as revitalization or stabilization activities under this paragraph (e)(2), if:

(i) The criteria in paragraph (e)(1) of this section are met; and

(ii) More than 50 percent of the project is non-residential as measured by the percentage of total square footage or dollar amount of the project.

(f) *Essential community facilities.* Essential community facilities are public facilities that provide essential services generally accessible by a local community, including, but not limited

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to, schools, libraries, childcare facilities, parks, hospitals, healthcare facilities, and community centers that benefit or serve targeted census tracts, and that:

(1) Are undertaken in conjunction with a plan, program, or initiative of a Federal, State, local, or tribal government or a mission-driven nonprofit organization, where the plan, program, or initiative includes a focus on benefiting or serving targeted census tracts;

(2) Benefit or serve residents, including low- or moderate-income individuals, of targeted census tracts; and

(3) Do not directly result in the forced or involuntary relocation of low- or moderate-income individuals in targeted census tracts.

(g) *Essential community infrastructure.* Essential community infrastructure comprises activities benefitting or serving targeted census tracts, including, but not limited to, broadband, telecommunications, mass transit, water supply and distribution, and sewage treatment and collection systems, and that:

(1) Are undertaken in conjunction with a plan, program, or initiative of a Federal, State, local, or tribal government or a mission-driven nonprofit organization, where the plan, program, or initiative includes a focus on benefiting or serving targeted census tracts;

(2) Benefit or serve residents, including low- or moderate-income individuals, of targeted census tracts; and

(3) Do not directly result in the forced or involuntary relocation of low- or moderate-income individuals in targeted census tracts.

(h) *Recovery of designated disaster areas—(1) In general.* Activities that promote recovery of a designated disaster area are those that revitalize or stabilize geographic areas subject to a Major Disaster Declaration administered by the Federal Emergency Management Agency (FEMA), and that:

(i) Are undertaken in conjunction with a disaster plan, program, or initiative of a Federal, State, local, or tribal government or a mission-driven nonprofit organization, where the plan, program, or initiative includes a focus on benefiting or serving the designated disaster area;

(ii) Benefit or serve residents, including low- or moderate-income individuals, of the designated disaster area; and

(iii) Do not directly result in the forced or involuntary relocation of low- or moderate-income individuals in the designated disaster area.

(2) *Eligibility limitations for loans, investments, or services supporting recovery of a designated disaster area.* (i) Loans, investments, or services that support recovery from a designated disaster in counties designated to receive only FEMA Public Assistance Emergency Work Category A (Debris Removal) and/or Category B (Emergency Protective Measures) are not eligible for consideration under this paragraph (h)(2), unless the Board, the FDIC, and the OCC announce a temporary exception.

(ii) The Board will consider loans, investments, and services that support recovery from a designated disaster under this paragraph (h)(2) for 36 months after a Major Disaster Declaration, unless that time period is extended by the Board, the FDIC, and the OCC.

(i) *Disaster preparedness and weather resiliency.* Disaster preparedness and weather resiliency activities assist individuals and communities to prepare for, adapt to, and withstand natural disasters or weather-related risks or disasters. Disaster preparedness and weather resiliency activities benefit or serve targeted census tracts and:

(1) Are undertaken in conjunction with a plan, program, or initiative of a Federal, State, local, or tribal government or a mission-driven nonprofit organization, where the plan, program, or initiative includes a focus on benefiting or serving targeted census tracts;

(2) Benefit or serve residents, including low- or moderate-income individuals, in targeted census tracts; and

(3) Do not directly result in the forced or involuntary relocation of low- or moderate-income individuals in targeted census tracts.

(j) *Revitalization or stabilization, essential community facilities, essential community infrastructure, and disaster preparedness and weather resiliency in Native Land Areas.* (1) Revitalization or

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stabilization, essential community facilities, essential community infrastructure, and disaster preparedness and weather resiliency activities in Native Land Areas are activities specifically targeted to and conducted in Native Land Areas.

(2) Revitalization or stabilization activities in Native Land Areas are defined consistent with paragraph (e) of this section, but specifically:

(i) Are undertaken in conjunction with a plan, program, or initiative of a Federal, State, local, or tribal government or a mission-driven nonprofit organization, where the plan, program, or initiative includes an explicit focus on revitalizing or stabilizing Native Land Areas and a particular focus on low- or moderate-income households;

(ii) Benefit or serve residents in Native Land Areas, with substantial benefits for low- or moderate-income individuals in Native Land Areas; and

(iii) Do not directly result in the forced or involuntary relocation of low- or moderate-income individuals in Native Land Areas.

(3) Essential community facilities, essential community infrastructure, and disaster preparedness and weather resiliency activities in Native Land Areas are defined consistent with paragraphs (f), (g), and (i) of this section, respectively, but specifically:

(i) Are undertaken in conjunction with a plan, program, or initiative of a Federal, State, local, or tribal government or a mission-driven nonprofit organization, where the plan, program, or initiative includes an explicit focus on benefitting or serving Native Land Areas;

(ii) Benefit or serve residents, including low- or moderate-income individuals, in Native Land Areas; and

(iii) Do not directly result in the forced or involuntary relocation of low- or moderate-income individuals in Native Land Areas.

(k) *Activities with MDIs, WDI, LICUs, or CDFIs.* Activities with MDIs, WDI, LICUs, or CDFIs are loans, investments, or services undertaken by any bank, including by an MDI, WDI, or CDFI bank evaluated under this part or 12 CFR part 25 or 345, in cooperation with an MDI, WDI, LICU, or CDFI. Such activities do not include invest-

ments by an MDI, WDI, or CDFI bank in itself.

(1) *Financial literacy.* Activities that promote financial literacy are those that assist individuals, families, and households, including low- or moderate-income individuals, families, and households, to make informed financial decisions regarding managing income, savings, credit, and expenses, including with respect to homeownership.

§ 228.14 Community development illustrative list; Confirmation of eligibility.

(a) *Illustrative list—(1) Issuing and maintaining the illustrative list.* The Board, the FDIC, and the OCC jointly issue and maintain a publicly available illustrative list of non-exhaustive examples of loans, investments, and services that qualify for community development consideration as provided in § 228.13.

(2) *Modifying the illustrative list.* (i) The Board, the FDIC, and the OCC update the illustrative list in paragraph (a)(1) of this section periodically.

(ii) If the Board, the FDIC, and the OCC determine that a loan or investment is no longer eligible for community development consideration, the owner of the loan or investment at the time of the determination will continue to receive community development consideration for the remaining term or period of the loan or investment. However, these loans or investments will not be considered eligible for community development consideration for any new purchasers of that loan or investment after the agencies make a determination that the loan or investment is no longer eligible for community development consideration.

(b) *Confirmation of eligibility—(1) Request for confirmation of eligibility.* A bank subject to this part may request that the Board confirm that a loan, investment, or service is eligible for community development consideration by submitting a request to, and in a format prescribed by, the Board.

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(2) *Determination of eligibility.* (i) To determine the eligibility of a loan, investment, or service for which a request has been submitted under paragraph (b)(1) of this section, the Board considers:

(A) Information that describes and supports the request; and

(B) Any other information that the Board deems relevant.

(ii) The Board, the FDIC, and the OCC expect and are presumed to jointly determine eligibility of a loan, investment, or service under paragraph (b)(2)(i) of this section to promote consistency. Before making a determination under paragraph (b)(2)(i) of this section, the Board consults with the OCC and FDIC regarding the eligibility of a loan, investment, or service.

(iii) The Board may impose limitations or requirements on a determination of the eligibility of a loan, investment, or service to ensure consistency with this part.

(3) *Notification of eligibility.* The Board notifies the requestor and the OCC and FDIC in writing of any determination under paragraph (b)(2) of this section, as well as the rationale for such determination.

§ 228.15 Impact and responsiveness review of community development loans, community development investments, and community development services.

(a) *Impact and responsiveness review, in general.* Under the Community Development Financing Test in § 228.24, the Community Development Services Test in § 228.25, and the Community Development Financing Test for Limited Purpose Banks in § 228.26, the Board evaluates the extent to which a bank's community development loans, community development investments, and community development services are impactful and responsive in meeting community development needs in each facility-based assessment area and, as applicable, each State, multistate MSA, and the nationwide area. The Board evaluates the impact and responsiveness of a bank's community development loans, community development investments, or community development services based on paragraph (b) of this section, and may take into ac-

count performance context information pursuant to § 228.21(d).

(b) *Impact and responsiveness review factors.* Factors considered in evaluating the impact and responsiveness of a bank's community development loans, community development investments, and community development services include, but are not limited to, whether the community development loan, community development investment, or community development service:

(1) Benefits or serves one or more persistent poverty counties;

(2) Benefits or serves one or more census tracts with a poverty rate of 40 percent or higher;

(3) Benefits or serves one or more geographic areas with low levels of community development financing;

(4) Supports an MDI, WDI, LICU, or CDFI, excluding certificates of deposit with a term of less than one year;

(5) Benefits or serves low-income individuals, families, or households;

(6) Supports small businesses or small farms with gross annual revenues of \$250,000 or less;

(7) Directly facilitates the acquisition, construction, development, preservation, or improvement of affordable housing in High Opportunity Areas;

(8) Benefits or serves residents of Native Land Areas;

(9) Is a grant or donation;

(10) Is an investment in projects financed with LIHTCs or NMTCs;

(11) Reflects bank leadership through multi-faceted or instrumental support; or

(12) Is a new community development financing product or service that addresses community development needs for low- or moderate-income individuals, families, or households.

Subpart B—Geographic Considerations

§ 228.16 Facility-based assessment areas.

(a) *In general.* A bank must delineate one or more facility-based assessment areas within which the Board evaluates the bank's record of helping to meet the credit needs of its entire community pursuant to the performance tests and strategic plan described in § 228.21.

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(b) *Geographic requirements for facility-based assessment areas.* (1) Except as provided in paragraph (b)(3) of this section, a bank's facility-based assessment areas must include each county in which a bank has a main office, a branch, or a deposit-taking remote service facility, as well as the surrounding counties in which the bank has originated or purchased a substantial portion of its loans (including home mortgage loans, multifamily loans, small business loans, small farm loans, and automobile loans).

(2) Except as provided in paragraph (b)(3) of this section, each of a bank's facility-based assessment areas must consist of a single MSA, one or more contiguous counties within an MSA, or one or more contiguous counties within the nonmetropolitan area of a State.

(3) An intermediate bank or a small bank may adjust the boundaries of its facility-based assessment areas to include only the portion of a county that it reasonably can be expected to serve, subject to paragraph (c) of this section. A facility-based assessment area that includes a partial county must consist of contiguous whole census tracts.

(c) *Other limitations on the delineation of a facility-based assessment area.* Each of a bank's facility-based assessment areas:

(1) May not reflect illegal discrimination; and

(2) May not arbitrarily exclude low- or moderate-income census tracts. In determining whether a bank has arbitrarily excluded low- or moderate-income census tracts from a facility-based assessment area, the Board takes into account the bank's capacity and constraints, including its size and financial condition.

(d) *Military banks.* Notwithstanding the requirements of this section, a military bank whose customers are not located within a defined geographic area may delineate the entire United States and its territories as its sole facility-based assessment area.

(e) *Use of facility-based assessment areas.* The Board uses the facility-based assessment areas delineated by a bank in its evaluation of the bank's CRA performance unless the Board determines that the facility-based assess-

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ment areas do not comply with the requirements of this section.

§ 228.17 Retail lending assessment areas.

(a) *In general.* (1) Based upon the criteria described in paragraphs (b) and (c) of this section, a large bank must delineate retail lending assessment areas within which the Board evaluates the bank's record of helping to meet the credit needs of its entire community pursuant to § 228.22.

(2) A large bank is not required to delineate retail lending assessment areas for a particular calendar year if, in the prior two calendar years, the large bank originated or purchased within its facility-based assessment areas more than 80 percent of its home mortgage loans, multifamily loans, small business loans, small farm loans, and automobile loans if automobile loans are a product line for the large bank as described in paragraph II.a.1 of appendix A to this part.

(3) If, in a retail lending assessment area delineated pursuant to paragraph (c) of this section, the large bank did not originate or purchase any reported loans in any of the product lines that formed the basis of the retail lending assessment area delineation pursuant to paragraph (c)(1) or (2) of this section, the Board will not consider the retail lending assessment area to have been delineated for that calendar year.

(b) *Geographic requirements for retail lending assessment areas.* (1) A large bank's retail lending assessment area must consist of either:

(i) The entirety of a single MSA (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation applies), excluding any counties inside the large bank's facility-based assessment areas; or

(ii) All of the counties in the nonmetropolitan area of a State (using the MSA boundaries that were in effect as of January 1 of the calendar year in which the delineation applies), excluding:

(A) Any counties included in the large bank's facility-based assessment areas; and

(B) Any counties in which the large bank did not originate any closed-end

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home mortgage loans or small business loans that are reported loans during that calendar year.

(2) A retail lending assessment area may not extend beyond a State boundary unless the retail lending assessment area consists of counties in a multistate MSA.

(c) *Delineation of retail lending assessment areas.* Subject to the geographic requirements in paragraph (b) of this section, a large bank must delineate, for a particular calendar year, a retail lending assessment area in any MSA or in the nonmetropolitan area of any State in which it originated:

(1) At least 150 closed-end home mortgage loans that are reported loans in each year of the prior two calendar years; or

(2) At least 400 small business loans that are reported loans in each year of the prior two calendar years.

(d) *Use of retail lending assessment areas.* The Board uses the retail lending assessment areas delineated by a large bank in its evaluation of the bank's closed-end home mortgage lending and small business lending performance unless the Board determines that the retail lending assessment areas do not comply with the requirements of this section.

§ 228.18 Outside retail lending areas.

(a) *In general—(1) Large banks.* The Board evaluates a large bank's record of helping to meet the credit needs of its entire community in its outside retail lending area pursuant to § 228.22. However, the Board will not evaluate a large bank in its outside retail lending area if it did not originate or purchase loans in any product lines in the outside retail lending area during the evaluation period.

(2) *Intermediate or small banks.* The Board evaluates the record of an intermediate bank, or a small bank that opts to be evaluated under the Retail Lending Test, of helping to meet the credit needs of its entire community in its outside retail lending area pursuant to § 228.22, for a particular calendar year, if:

(i) The bank opts to have its major product lines evaluated in its outside retail lending area; or

(ii) In the prior two calendar years, the bank originated or purchased outside the bank's facility-based assessment areas more than 50 percent of the bank's home mortgage loans, multifamily loans, small business loans, small farm loans, and automobile loans if automobile loans are a product line for the bank, as described in paragraph II.a.2 of appendix A to this part.

(b) *Geographic requirements of outside retail lending areas—(1) In general.* A bank's outside retail lending area consists of the nationwide area, excluding:

(i) The bank's facility-based assessment areas and retail lending assessment areas; and

(ii) Any county in a nonmetropolitan area in which the bank did not originate or purchase any closed-end home mortgage loans, small business loans, small farm loans, or automobile loans if automobile loans are a product line for the bank.

(2) *Component geographic area.* The outside retail lending area is comprised of component geographic areas. A component geographic area is any MSA or the nonmetropolitan area of any State, or portion thereof, included within the outside retail lending area.

§ 228.19 Areas for eligible community development loans, community development investments, and community development services.

The Board may consider a bank's community development loans, community development investments, and community development services provided outside of its facility-based assessment areas, as provided in this part.

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Subpart C—Standards for Assessing Performance

§ 228.21 Evaluation of CRA performance in general.

(a) *Application of performance tests and strategic plans—(1) Large banks.* To evaluate the performance of a large bank, the Board applies the Retail Lending Test in § 228.22, the Retail Services and Products Test in § 228.23,

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the Community Development Financing Test in § 228.24, and the Community Development Services Test in § 228.25.

(2) *Intermediate banks*—(i) *In general.* To evaluate the performance of an intermediate bank, the Board applies the Retail Lending Test in § 228.22 and either the Intermediate Bank Community Development Test in § 228.30(a)(2) or, at the bank's option, the Community Development Financing Test in § 228.24.

(ii) *Intermediate banks evaluated under § 228.24.* If an intermediate bank opts to be evaluated pursuant to the Community Development Financing Test in § 228.24, the Board evaluates the intermediate bank for the evaluation period preceding the bank's next CRA examination pursuant to the Community Development Financing Test in § 228.24 and continues evaluations pursuant to this performance test for subsequent evaluation periods until the bank opts out. If an intermediate bank opts out of the Community Development Financing Test in § 228.24, the Board reverts to evaluating the bank pursuant to the Intermediate Bank Community Development Test in § 228.30(a)(2), starting with the evaluation period preceding the bank's next CRA examination.

(iii) *Additional consideration.* An intermediate bank may request additional consideration pursuant to § 228.30(b).

(3) *Small banks*—(i) *In general.* To evaluate the performance of a small bank, the Board applies the Small Bank Lending Test in § 228.29(a)(2), unless the bank opts to be evaluated pursuant to the Retail Lending Test in § 228.22.

(ii) *Small banks evaluated under the Retail Lending Test.* If a small bank opts to be evaluated pursuant to the Retail Lending Test in § 228.22, the following applies:

(A) The Board evaluates the small bank using the same provisions used to evaluate intermediate banks pursuant to the Retail Lending Test in § 228.22.

(B) The Board evaluates the small bank for the evaluation period preceding the bank's next CRA examination pursuant to the Retail Lending Test in § 228.22 and continues evaluations under this performance test for

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subsequent evaluation periods until the bank opts out. If a small bank opts out of the Retail Lending Test in § 228.22, the Board reverts to evaluating the bank pursuant to the Small Bank Lending Test in § 228.29(a)(2), starting with the evaluation period preceding the bank's next CRA examination.

(iii) *Additional consideration.* A small bank may request additional consideration pursuant to § 228.29(b).

(4) *Limited purpose banks*—(i) *In general.* The Board evaluates a limited purpose bank pursuant to the Community Development Financing Test for Limited Purpose Banks in § 228.26.

(ii) *Additional consideration.* A limited purpose bank may request additional consideration pursuant to § 228.26(b)(2).

(5) *Military banks*—(i) *In general.* The Board evaluates a military bank pursuant to the applicable performance tests described in paragraph (a) of this section.

(ii) *Evaluation approach for military banks operating under § 228.16(d).* If a military bank delineates the entire United States and its territories as its sole facility-based assessment area pursuant to § 228.16(d), the Board evaluates the bank exclusively at the institution level based on its performance in its sole facility-based assessment area.

(6) *Banks operating under a strategic plan.* The Board evaluates the performance of a bank that has an approved strategic plan pursuant to § 228.27.

(b) *Loans, investments, services, and products of operations subsidiaries and other affiliates*—(1) *In general.* In the performance evaluation of a bank, the Board considers the loans, investments, services, and products of a bank's operations subsidiaries and other affiliates, as applicable, as provided in paragraphs (b)(2) and (3) of this section, so long as no other depository institution claims the loan, investment, service, or product for purposes of this part or 12 CFR part 25 or 345.

(2) *Loans, investments, services, and products of operations subsidiaries.* The Board considers the loans, investment, services, and products of a bank's operations subsidiaries under this part, unless an operations subsidiary is independently subject to the CRA. The

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bank must collect, maintain, and report data on the loans, investments, services, and products of its operations subsidiaries as provided in § 228.42(c).

(3) *Loans, investments, services, and products of other affiliates.* The Board considers the loans, investments, services, and products of affiliates of a bank that are not operations subsidiaries, at the bank's option, subject to the following:

(i) The affiliate is not independently subject to the CRA.

(ii) The bank collects, maintains, and reports data on the loans, investments, services, or products of the affiliate as provided in § 228.42(d).

(iii) Pursuant to the Retail Lending Test in § 228.22, if a bank opts to have the Board consider the closed-end home mortgage loans, small business loans, small farm loans, or automobile loans that are originated or purchased by one or more of the bank's affiliates in a particular Retail Lending Test Area, the Board will consider, subject to paragraphs (b)(3)(i) and (ii) of this section, all of the loans in that product line originated or purchased by all of the bank's affiliates in the particular Retail Lending Test Area.

(iv) Pursuant to the Retail Lending Test in § 228.22, if a large bank opts to have the Board consider the closed-end home mortgage loans or small business loans that are originated or purchased by any of the bank's affiliates in any Retail Lending Test Area, the Board will consider, subject to paragraphs (b)(3)(i) and (ii) of this section, the closed-end home mortgage loans or small business loans originated by all of the bank's affiliates in the nationwide area when delineating retail lending assessment areas pursuant to § 228.17(c).

(v) Pursuant to the Community Development Financing Test in § 228.24, the Community Development Financing Test for Limited Purpose Banks in § 228.26, the Intermediate Bank Community Development Test in § 228.30(a)(2), or pursuant to an approved strategic plan in § 228.27, the Board will consider, at the bank's option, community development loans or community development investments that are originated, purchased, refinanced, or renewed by one or more of the bank's affiliates,

subject to paragraphs (b)(3)(i) and (ii) of this section.

(c) *Community development lending and community development investment by a consortium or a third party.* If a bank invests in or participates in a consortium that originates, purchases, refinances, or renews community development loans or community development investments, or if a bank invests in a third party that originates, purchases, refinances, or renews community development loans or community development investments, the Board may consider, at the bank's option, either those loans or investments, subject to the limitations in paragraphs (c)(1) through (3) of this section, or the investment in the consortium or third party.

(1) The bank must collect, maintain, and report the data pertaining to the community development loans and community development investments as provided in § 228.42(e), as applicable;

(2) If the participants or investors choose to allocate community development loans or community development investments among themselves for consideration under this section, no participant or investor may claim a loan origination, loan purchase, or investment for community development consideration if another participant or investor claims the same loan origination, loan purchase, or investment; and

(3) The bank may not claim community development loans or community development investments accounting for more than its percentage share (based on the level of its participation or investment) of the total loans or investments made by the consortium or third party.

(d) *Performance context information considered.* When applying performance tests and strategic plans pursuant to paragraph (a) of this section, and when determining whether to approve a strategic plan pursuant to § 228.27(h), the Board may consider the following performance context information to the extent that it is not considered as part of the performance tests as provided in paragraph (a) of this section:

(1) Any information regarding a bank's institutional capacity or constraints, including the size and financial condition of the bank, safety and

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soundness limitations, or any other bank-specific factors that significantly affect the bank's ability to provide retail lending, retail banking services and retail banking products, community development loans, community development investments, or community development services;

(2) Any information regarding the bank's past performance;

(3) Demographic data on income levels and income distribution, nature of housing stock, housing costs, economic climate, or other relevant data;

(4) Any information about retail banking and community development needs and opportunities provided by the bank or other relevant sources, including, but not limited to, members of the community, community organizations, State, local, and tribal governments, and economic development agencies;

(5) Data and information provided by the bank regarding the bank's business strategy and product offerings;

(6) The bank's public file, as provided in § 228.43, including any written comments about the bank's CRA performance submitted to the bank or the Board and the bank's responses to those comments; and

(7) Any other information deemed relevant by the Board.

(e) *Conclusions and ratings*—(1) *Conclusions*. The Board assigns conclusions to a large bank's or limited purpose bank's performance on the applicable tests described in paragraph (a) of this section pursuant to § 228.28 and appendix C to this part. The Board assigns conclusions to a small bank's or intermediate bank's performance on the applicable tests described in paragraph (a) of this section pursuant to § 228.28 and appendices C and E to this part. The Board assigns conclusions to a bank that has an approved strategic plan pursuant to § 228.28 and paragraph g of appendix C to this part.

(2) *Ratings*. The Board assigns an overall CRA performance rating to a bank in each State or multistate MSA, as applicable, and for the institution pursuant to § 228.28 and appendices D and E to this part.

(f) *Safe and sound operations*. The CRA and this part do not require a bank to originate or purchase loans or

investments or to provide services that are inconsistent with safe and sound banking practices, including underwriting standards. Banks are permitted to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income individuals, small businesses or small farms, and low- or moderate-income census tracts, only if consistent with safe and sound operations.

§ 228.22 Retail lending test.

(a) *Retail Lending Test*—(1) *In general*. Pursuant to § 228.21, the Retail Lending Test evaluates a bank's record of helping to meet the credit needs of its entire community through the bank's origination and purchase of home mortgage loans, multifamily loans, small business loans, and small farm loans.

(2) *Automobile loans*. The Retail Lending Test evaluates a bank's record of helping to meet the credit needs of its entire community through the bank's origination and purchase of automobile loans if the bank is a majority automobile lender. A bank that is not a majority automobile lender may opt to have automobile loans evaluated under this section.

(b) *Methodology overview*—(1) *Retail Lending Volume Screen*. The Board evaluates whether a bank meets or surpasses the Retail Lending Volume Threshold in each facility-based assessment area pursuant to the Retail Lending Volume Screen as provided in paragraph (c) of this section.

(2) *Retail lending distribution analysis*. Except as provided in paragraph (b)(5) of this section, the Board evaluates the geographic and borrower distributions of each of a bank's major product lines in each Retail Lending Test Area, as provided in paragraphs (d) and (e) of this section.

(3) *Retail Lending Test recommended conclusions*. Except as provided in paragraph (b)(5) of this section, the Board develops a Retail Lending Test recommended conclusion pursuant to paragraph (f) of this section for each Retail Lending Test Area.

(4) *Retail Lending Test conclusions*. Except as provided in paragraph (b)(5) of this section, the Board's determination

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of a bank's Retail Lending Test conclusion for a Retail Lending Test Area is informed by the bank's Retail Lending Test recommended conclusion for the Retail Lending Test Area, performance context factors provided in § 228.21(d), and the additional factors provided in paragraph (g) of this section.

(5) *Exceptions*—(i) *No major product line.* If a bank has no major product line in a facility-based assessment area, the Board assigns the bank a Retail Lending Test conclusion for that facility-based assessment area based upon its performance on the Retail Lending Volume Screen pursuant to paragraph (c) of this section, performance context factors provided in § 228.21(d), and the additional factors provided in paragraph (g) of this section.

(ii) *Banks that lack an acceptable basis for not meeting the Retail Lending Volume Threshold.* The Board assigns a Retail Lending Test conclusion for a facility-based assessment area in which a bank lacks an acceptable basis for not meeting the Retail Lending Volume Threshold as provided in paragraph (c)(3)(iii) of this section.

(c) *Retail Lending Volume Screen*—(1) *Retail Lending Volume Threshold.* A bank meets or surpasses the Retail Lending Volume Threshold in a facility-based assessment area if the bank has a Bank Volume Metric of 30 percent or greater of the Market Volume Benchmark for that facility-based assessment area. The Board calculates the Bank Volume Metric and the Market Volume Benchmark pursuant to section I of appendix A to this part.

(2) *Banks that meet or surpass the Retail Lending Volume Threshold in a facility-based assessment area.* If a bank meets or surpasses the Retail Lending Volume Threshold in a facility-based assessment area pursuant to paragraph (c)(1) of this section, the Board develops a Retail Lending Test recommended conclusion for the facility-based assessment area pursuant to paragraphs (d) through (f) of this section.

(3) *Banks that do not meet the Retail Lending Volume Threshold in a facility-based assessment area*—(i) *Acceptable basis factors.* If a bank does not meet the Retail Lending Volume Threshold

in a facility-based assessment area pursuant to paragraph (c)(1) of this section, the Board determines whether the bank has an acceptable basis for not meeting the Retail Lending Volume Threshold in the facility-based assessment area by considering:

(A) The bank's dollar volume of non-automobile consumer loans;

(B) The bank's institutional capacity and constraints, including the financial condition of the bank;

(C) The presence or lack of other lenders in the facility-based assessment area;

(D) Safety and soundness limitations;

(E) The bank's business strategy; and

(F) Any other factors that limit the bank's ability to lend in the facility-based assessment area.

(ii) *Banks that have an acceptable basis for not meeting the Retail Lending Volume Threshold in a facility-based assessment area.* If, after reviewing the factors described in paragraph (c)(3)(i) of this section, the Board determines that a bank has an acceptable basis for not meeting the Retail Lending Volume Threshold in a facility-based assessment area, the Board develops a Retail Lending Test recommended conclusion for the facility-based assessment area in the same manner as for a bank that meets or surpasses the Retail Lending Volume Threshold under paragraph (c)(2) of this section.

(iii) *Banks that lack an acceptable basis for not meeting the Retail Lending Volume Threshold in a facility-based assessment area*—(A) *Large banks.* If, after reviewing the factors in paragraph (c)(3)(i) of this section, the Board determines that a large bank lacks an acceptable basis for not meeting the Retail Lending Volume Threshold in a facility-based assessment area, the Board assigns the bank a Retail Lending Test conclusion of "Needs to Improve" or "Substantial Noncompliance" for that facility-based assessment area. In determining whether "Needs to Improve" or "Substantial Noncompliance" is the appropriate conclusion, the Board considers:

(1) The bank's retail lending volume and the extent by which it did not meet the Retail Lending Volume Threshold;

(2) The bank's distribution analysis pursuant to paragraphs (d) through (f) of this section;

(3) Performance context factors provided in § 228.21(d); and

(4) Additional factors provided in paragraph (g) of this section.

(B) *Intermediate or small banks.* If, after reviewing the factors in paragraph (c)(3)(i) of this section, the Board determines that an intermediate bank, or a small bank that opts to be evaluated under the Retail Lending Test, lacks an acceptable basis for not meeting the Retail Lending Volume Threshold in a facility-based assessment area, the Board develops a Retail Lending Test recommended conclusion for the facility-based assessment area pursuant to paragraphs (d) through (f) of this section. The Board's determination of a bank's Retail Lending Test conclusion for the facility-based assessment area is informed by:

(1) The bank's Retail Lending Test recommended conclusion for the facility-based assessment area;

(2) The bank's retail lending volume and the extent by which it did not meet the Retail Lending Volume Threshold;

(3) Performance context factors provided in § 228.21(d); and

(4) Additional factors provided in paragraph (g) of this section.

(d) *Scope of Retail Lending Test distribution analysis*—(1) *Product lines evaluated in a Retail Lending Test Area.* In each applicable Retail Lending Test Area, the Board evaluates originated and purchased loans in each of the following product lines that is a major product line, as described in paragraph (d)(2) of this section:

(i) Closed-end home mortgage loans in a bank's facility-based assessment areas and, as applicable, retail lending assessment areas and outside retail lending area;

(ii) Small business loans in a bank's facility-based assessment areas and, as applicable, retail lending assessment areas and outside retail lending area;

(iii) Small farm loans in a bank's facility-based assessment areas and, as applicable, outside retail lending area; and

(iv) Automobile loans in a bank's facility-based assessment areas and, as applicable, outside retail lending area.

(2) *Major product line standards*—(i) *Major product line standard for facility-based assessment areas and outside retail lending areas.* In a facility-based assessment area or outside retail lending area, a product line is a major product line if the bank's loans in that product line comprise 15 percent or more of the bank's loans across all of the bank's product lines in the facility-based assessment area or outside retail lending area, as determined pursuant to paragraph II.b.1 of appendix A to this part.

(ii) *Major product line standards for retail lending assessment areas.* In a retail lending assessment area:

(A) Closed-end home mortgage loans are a major product line in any calendar year in the evaluation period in which the bank delineates a retail lending assessment area based on its closed-end home mortgage loans as determined by the standard in § 228.17(c)(1); and

(B) Small business loans are a major product line in any calendar year in the evaluation period in which the bank delineates a retail lending assessment area based on its small business loans as determined by the standard in § 228.17(c)(2).

(e) *Retail Lending Test distribution analysis.* The Board evaluates a bank's Retail Lending Test performance in each of its Retail Lending Test Areas by considering the geographic and borrower distributions of a bank's loans in its major product lines.

(1) *Distribution analysis in general*—(i) *Distribution analysis for closed-end home mortgage loans, small business loans, and small farm loans.* For closed-end home mortgage loans, small business loans, and small farm loans, respectively, the Board compares a bank's geographic and borrower distributions to performance ranges based on the applicable market and community benchmarks, as provided in paragraph (f) of this section and section V of appendix A to this part.

(ii) *Distribution analysis for automobile loans.* For automobile loans, the Board compares a bank's geographic and borrower distributions to the applicable community benchmarks, as provided in

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paragraph (f) of this section and section VI of appendix A to this part.

(2) *Categories of lending evaluated*—(i) *Geographic distributions*. For each major product line in each Retail Lending Test Area, the Board evaluates the geographic distributions separately for the following categories of census tracts:

- (A) Low-income census tracts; and
- (B) Moderate-income census tracts.

(ii) *Borrower distributions*. For each major product line in each Retail Lending Test Area, the Board evaluates the borrower distributions separately for, as applicable, the following categories of borrowers:

- (A) Low-income borrowers;
- (B) Moderate-income borrowers;
- (C) Businesses with gross annual revenues of \$250,000 or less;
- (D) Businesses with gross annual revenues greater than \$250,000 but less than or equal to \$1 million;
- (E) Farms with gross annual revenues of \$250,000 or less; and
- (F) Farms with gross annual revenues greater than \$250,000 but less than or equal to \$1 million.

(3) *Geographic distribution measures*. To evaluate the geographic distributions in a Retail Lending Test Area, the Board considers the following measures:

(i) *Geographic Bank Metric*. For each major product line, a Geographic Bank Metric, calculated pursuant to paragraph III.a of appendix A to this part;

(ii) *Geographic Market Benchmark*. For each major product line except automobile loans, a Geographic Market Benchmark, calculated pursuant to paragraph III.b of appendix A to this part for facility-based assessment areas and retail lending assessment areas, and paragraph III.d of appendix A to this part for outside retail lending areas; and

(iii) *Geographic Community Benchmark*. For each major product line, a Geographic Community Benchmark, calculated pursuant to paragraph III.c of appendix A to this part for facility-based assessment areas and retail lending assessment areas, and paragraph III.e of appendix A to this part for outside retail lending areas.

(4) *Borrower distribution measures*. To evaluate the borrower distributions in

a Retail Lending Test Area, the Board considers the following measures:

(i) *Borrower Bank Metric*. For each major product line, a Borrower Bank Metric, calculated pursuant to paragraph IV.a of appendix A to this part;

(ii) *Borrower Market Benchmark*. For each major product line except automobile loans, a Borrower Market Benchmark, calculated pursuant to paragraph IV.b of appendix A to this part for facility-based assessment areas and retail lending assessment areas, and paragraph IV.d of appendix A to this part for outside retail lending areas; and

(iii) *Borrower Community Benchmark*. For each major product line, a Borrower Community Benchmark, calculated pursuant to paragraph IV.c of appendix A to this part for facility-based assessment areas and retail lending assessment areas, and paragraph IV.e of appendix A to this part for outside retail lending areas.

(f) *Retail Lending Test recommended conclusions*—(1) *In general*. Except as described in paragraphs (b)(5)(i) and (c)(3)(iii)(A) of this section, the Board develops a Retail Lending Test recommended conclusion for each of a bank's Retail Lending Test Areas based on the distribution analysis described in paragraph (e) of this section and using performance ranges, supporting conclusions, and product line scores as provided in sections V through VII of appendix A to this part. For each major product line, the Board develops a separate supporting conclusion for each category of census tracts and each category of borrowers described in paragraphs V.a and VI.a of appendix A to this part.

(2) *Geographic distribution supporting conclusions*—(i) *Geographic distribution supporting conclusions for closed-end home mortgage loans, small business loans, and small farm loans*. To develop supporting conclusions for geographic distributions of closed-end home mortgage loans, small business loans, and small farm loans, the Board evaluates the bank's performance by comparing the Geographic Bank Metric to performance ranges, based on the Geographic Market Benchmark, the Geographic Community Benchmark, and

multipliers, as described in paragraphs V.b and V.c of appendix A to this part.

(ii) *Geographic distribution supporting conclusions for automobile loans.* To develop supporting conclusions for geographic distributions for automobile loans, the Board evaluates the bank's performance by comparing the Geographic Bank Metric to the Geographic Community Benchmark, as described in paragraph VI.b of appendix A to this part.

(3) *Borrower distribution supporting conclusions—(i) Borrower distribution supporting conclusions for closed-end home mortgage loans, small business loans, and small farm loans.* To develop supporting conclusions for borrower distributions of closed-end home mortgage loans, small business loans, and small farm loans, the Board evaluates the bank's performance by comparing the Borrower Bank Metric to performance ranges, based on the Borrower Market Benchmark, Borrower Community Benchmark, and multipliers, as described in paragraphs V.d and V.e of appendix A to this part.

(ii) *Borrower distribution supporting conclusions for automobile loans.* To develop supporting conclusions for borrower distributions for automobile loans, the Board evaluates the bank's performance by comparing the Borrower Bank Metric to the Borrower Community Benchmark, as described in paragraph VI.c of appendix A to this part.

(4) *Development of Retail Lending Test recommended conclusions—(i) Assignment of performance scores.* For each supporting conclusion developed pursuant to paragraphs (f)(2) and (3) of this section, the Board assigns a corresponding performance score as described in sections V and VI of appendix A to this part.

(ii) *Combination of performance scores.* As described in section VII of appendix A to this part, for each Retail Lending Test Area, the Board:

(A) Combines the performance scores for each supporting conclusion for each major product line into a product line score; and

(B) Calculates a weighted average of product line scores across all major product lines.

(iii) *Retail Lending Test recommended conclusions.* For each Retail Lending Test Area, the Board develops the Retail Lending Test recommended conclusion that corresponds to the weighted average of product line scores developed pursuant to paragraph (f)(4)(ii)(B) of this section, as described in section VII of appendix A to this part.

(g) *Additional factors considered when evaluating retail lending performance.* The factors in paragraphs (g)(1) through (7) of this section, as appropriate, inform the Board's determination of a bank's Retail Lending Test conclusion for a Retail Lending Test Area:

(1) Information indicating that a bank purchased closed-end home mortgage loans, small business loans, small farm loans, or automobile loans for the sole or primary purpose of inappropriately enhancing its retail lending performance, including, but not limited to, information indicating subsequent resale of such loans or any indication that such loans have been considered in multiple depository institutions' CRA evaluations, in which case the Board does not consider such loans in the bank's performance evaluation;

(2) The dispersion of a bank's closed-end home mortgage lending, small business lending, small farm lending, or automobile lending within a facility-based assessment area to determine whether there are gaps in lending that are not explained by performance context;

(3) The number of lenders whose home mortgage loans, multifamily loans, small business loans, and small farm loans and deposits data are used to establish the applicable Retail Lending Volume Threshold, geographic distribution market benchmarks, and borrower distribution market benchmarks;

(4) Missing or faulty data that would be necessary to calculate the relevant metrics and benchmarks or any other factors that prevent the Board from calculating a Retail Lending Test recommended conclusion. If unable to calculate a Retail Lending Test recommended conclusion, the Board assigns a Retail Lending Test conclusion based on consideration of the relevant available data;

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(5) Whether the Retail Lending Test recommended conclusion does not accurately reflect the bank's performance in a Retail Lending Test Area in which one or more of the bank's major product lines consists of fewer than 30 loans;

(6) A bank's closed-end home mortgage lending, small business lending, small farm lending, or automobile lending in distressed or underserved nonmetropolitan middle-income census tracts where a bank's nonmetropolitan facility-based assessment area or nonmetropolitan retail lending assessment area includes very few or no low- and moderate-income census tracts; and

(7) Information indicating that the credit needs of the facility-based assessment area or retail lending assessment area are not being met by lenders in the aggregate, such that the relevant benchmarks do not adequately reflect community credit needs.

(h) *Retail Lending Test performance conclusions and ratings*—(1) *Conclusions*—(i) *In general*. Pursuant to § 228.28, section VIII of appendix A to this part, and appendix C to this part, the Board assigns conclusions for a bank's Retail Lending Test performance in each Retail Lending Test Area, State, and multistate MSA, as applicable, and for the institution.

(ii) *Retail Lending Test Area conclusions*. The Board assigns a Retail Lending Test conclusion for each Retail Lending Test Area based on the Retail Lending Test recommended conclusion, performance context factors provided in § 228.21(d), and the additional factors provided in paragraph (g) of this section, except as provided in paragraphs (h)(1)(ii)(A) and (B) of this section:

(A) *Facility-based assessment areas with no major product line*. The Board assigns a Retail Lending Test conclusion for a facility-based assessment area in which a bank has no major product line based on the bank's performance on the Retail Lending Volume Screen pursuant to paragraph (c) of this section, performance context information provided in § 228.21(d), and the additional factors provided in paragraph (g) of this section.

(B) *Facility-based assessment areas in which a bank lacks an acceptable basis for not meeting the Retail Lending Vol-*

ume Threshold. The Board assigns a Retail Lending Test conclusion for a facility-based assessment area in which a bank lacks an acceptable basis for not meeting the Retail Lending Volume Threshold as provided in paragraph (c)(3)(iii) of this section.

(2) *Ratings*. Pursuant to § 228.28 and appendix D to this part, the Board incorporates a bank's Retail Lending Test conclusions into its State or multistate MSA ratings, as applicable, and its institution rating.

EFFECTIVE DATE NOTE: At 89 FR 7189, Feb. 1, 2024, § 228.22 was amended by removing "Businesses" and adding in its place "Small businesses" in paragraphs (e)(2)(ii)(C) and (D), and removing "Farms" and adding in its place "Small farms" in paragraphs (e)(2)(ii)(E) and (F), effective date delayed indefinitely.

§ 228.23 Retail services and products test.

(a) *Retail Services and Products Test*—(1) *In general*. Pursuant to § 228.21, the Retail Services and Products Test evaluates the availability of a bank's retail banking services and retail banking products and the responsiveness of those services and products to the credit needs of the bank's entire community, including low- and moderate-income individuals, families, or households, low- and moderate-income census tracts, small businesses, and small farms. The Board evaluates the bank's retail banking services, as described in paragraph (b) of this section, and the bank's retail banking products, as described in paragraph (c) of this section.

(2) *Main offices*. For purposes of this section, references to a branch also include a main office that is open to, and accepts deposits from, the general public.

(3) *Exclusion*. If the Board considers services under the Community Development Services Test in § 228.25, the Board does not consider those services under the Retail Services and Products Test.

(b) *Retail banking services*—(1) *Scope of evaluation*. To evaluate a bank's retail banking services, the Board considers a bank's branch availability and services provided at branches, remote service facility availability, and digital delivery systems and other delivery systems, as follows:

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(i) *Branch availability and services.* The Board considers the branch availability and services provided at branches of banks that operate one or more branches pursuant to paragraph (b)(2) of this section.

(ii) *Remote service facility availability.* The Board considers the remote service facility availability of banks that operate one or more remote service facilities pursuant to paragraph (b)(3) of this section.

(iii) *Digital delivery systems and other delivery systems.* The Board considers the digital delivery systems and other delivery systems of banks pursuant to paragraph (b)(4) of this section, as follows:

(A) The Board considers the digital delivery systems and other delivery systems of the following banks:

(1) Large banks that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years; and

(2) Large banks that had assets less than or equal to \$10 billion as of December 31 in either of the prior two calendar years and that do not operate branches.

(B) For a large bank that had assets less than or equal to \$10 billion as of December 31 in either of the prior two calendar years and that operates at least one branch, the Board considers the bank's digital delivery systems and other delivery systems at the bank's option.

(2) *Branch availability and services.* The Board evaluates a bank's branch availability and services in a facility-based assessment area based on the following:

(i) *Branch distribution.* The Board considers a bank's branch distribution using the following:

(A) *Branch distribution metrics.* The Board considers the number and percentage of the bank's branches within low-, moderate-, middle-, and upper-income census tracts.

(B) *Benchmarks.* The Board's consideration of the branch distribution metrics is informed by the following benchmarks:

(1) Percentage of census tracts in the facility-based assessment area that are low-, moderate-, middle-, and upper-income census tracts;

(2) Percentage of households in the facility-based assessment area that are in low-, moderate-, middle-, and upper-income census tracts;

(3) Percentage of total businesses in the facility-based assessment area that are in low-, moderate-, middle-, and upper-income census tracts; and

(4) Percentage of all full-service depository institution branches in the facility-based assessment area that are in low-, moderate-, middle-, and upper-income census tracts.

(C) *Additional geographic considerations.* The Board considers the availability of branches in the following geographic areas:

(1) Middle- and upper-income census tracts in which a branch delivers services to low- and moderate-income individuals, families, or households to the extent that these individuals, families, or households use the services offered;

(2) Distressed or underserved non-metropolitan middle-income census tracts; and

(3) Native Land Areas.

(ii) *Branch openings and closings.* The Board considers a bank's record of opening and closing branches since the previous CRA examination to inform the degree of accessibility of services to low- and moderate-income individuals, families, or households, small businesses, and small farms, and low- and moderate-income census tracts.

(iii) *Branch hours of operation and services.* The Board considers the following:

(A) The reasonableness of branch hours in low- and moderate-income census tracts compared to middle- and upper-income census tracts, including, but not limited to, whether branches offer extended and weekend hours.

(B) The range of services provided at branches in low-, moderate-, middle-, and upper-income census tracts, respectively, including, but not limited to:

(1) Bilingual and translation services;

(2) Free or low-cost check cashing services, including, but not limited to, check cashing services for government-issued and payroll checks;

(3) Reasonably priced international remittance services; and

(4) Electronic benefit transfers.

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(C) The degree to which branch-provided retail banking services are responsive to the needs of low- and moderate-income individuals, families, or households in a bank's facility-based assessment areas.

(3) *Remote service facility availability.* The Board evaluates a bank's remote service facility availability in a facility-based assessment area based on the following:

(i) *Remote service facility distribution.* The Board considers a bank's remote service facility distribution using the following:

(A) *Remote service facility distribution metrics.* The Board considers the number and percentage of the bank's remote service facilities within low-, moderate-, middle-, and upper-income census tracts.

(B) *Benchmarks.* The Board's consideration of the remote service facility distribution metrics is informed by the following benchmarks:

(1) Percentage of census tracts in the facility-based assessment area that are low-, moderate-, middle-, and upper-income census tracts;

(2) Percentage of households in the facility-based assessment area that are in low-, moderate-, middle-, and upper-income census tracts; and

(3) Percentage of total businesses in the facility-based assessment area that are in low-, moderate-, middle-, and upper-income census tracts.

(C) *Additional geographic considerations.* The Board considers the availability of remote service facilities in the following geographic areas:

(1) Middle- and upper-income census tracts in which a remote service facility delivers services to low- and moderate-income individuals, families, or households to the extent that these individuals, families, or households use the services offered;

(2) Distressed or underserved non-metropolitan middle-income census tracts; and

(3) Native Land Areas.

(ii) *Access to out-of-network ATMs.* The Board considers whether the bank offers customers fee-free access to out-of-network ATMs in low- and moderate-income census tracts.

(4) *Digital delivery systems and other delivery systems.* The Board evaluates

the availability and responsiveness of a bank's digital delivery systems and other delivery systems, including to low- and moderate-income individuals, families, or households at the institution level by considering:

(i) The range of retail banking services and retail banking products offered through digital delivery systems and other delivery systems;

(ii) The bank's strategy and initiatives to serve low- and moderate-income individuals, families, or households with digital delivery systems and other delivery systems as reflected by, for example, the costs, features, and marketing of the delivery systems; and

(iii) Digital delivery systems and other delivery systems activity by individuals, families or households in low-, moderate-, middle-, and upper-income census tracts as evidenced by:

(A) The number of checking and savings accounts opened each calendar year during the evaluation period digitally and through other delivery systems in low-, moderate-, middle-, and upper-income census tracts;

(B) The number of checking and savings accounts opened digitally and through other delivery systems and that are active at the end of each calendar year during the evaluation period in low-, moderate-, middle-, and upper-income census tracts; and

(C) Any other bank data that demonstrates digital delivery systems and other delivery systems are available to individuals and in census tracts of different income levels, including low- and moderate-income individuals, families, or households and low- and moderate-income census tracts.

(c) *Retail banking products evaluation*—(1) *Scope of evaluation.* The Board evaluates a bank's retail banking products offered in the bank's facility-based assessment areas and nationwide, as applicable, at the institution level as follows:

(i) *Credit products and programs.* The Board evaluates a bank's credit products and programs pursuant to paragraph (c)(2) of this section.

(ii) *Deposit products.* The Board evaluates a bank's deposit products pursuant to paragraph (c)(3) of this section as follows:

(A) For large banks that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years; and

(B) For large banks that had assets less than or equal to \$10 billion as of December 31 in either of the prior two calendar years, the Board considers a bank's deposit products only at the bank's option.

(2) *Credit products and programs.* The Board evaluates whether a bank's credit products and programs are, consistent with safe and sound operations, responsive to the credit needs of the bank's entire community, including the needs of low- and moderate-income individuals, families, or households, residents of low- and moderate-income census tracts, small businesses, or small farms. Responsive credit products and programs may include, but are not limited to, credit products and programs that:

(i) Facilitate home mortgage and consumer lending targeted to low- or moderate-income borrowers;

(ii) Meet the needs of small businesses and small farms, including small businesses and small farms with gross annual revenues of \$250,000 or less;

(iii) Are conducted in cooperation with MDIs, WDIs, LICUs, or CDFIs;

(iv) Are low-cost education loans; or

(v) Are special purpose credit programs pursuant to 12 CFR 1002.8.

(3) *Deposit products.* The Board evaluates the availability and usage of a bank's deposit products responsive to the needs of low- and moderate-income individuals, families, or households as follows:

(i) *Availability of deposit products responsive to the needs of low- and moderate-income individuals, families, or households.* The Board considers the availability of deposit products responsive to the needs of low- and moderate-income individuals, families, or households based on the extent to which a bank offers deposit products that, consistent with safe and sound operations, have features and cost characteristics responsive to the needs of low- and moderate-income individuals, families, or households. Deposit products responsive to the needs of low- and moderate-income individuals, families, or households include but are not limited

to, deposit products with the following types of features:

(A) Low-cost features, including, but not limited to, deposit products with no overdraft or insufficient funds fees, no or low minimum opening balance, no or low monthly maintenance fees, or free or low-cost check-cashing and bill-pay services;

(B) Features facilitating broad functionality and accessibility, including, but not limited to, deposit products with in-network ATM access, debit cards for point-of-sale and bill payments, and immediate access to funds for customers cashing government, payroll, or bank-issued checks; or

(C) Features facilitating inclusivity of access by individuals without banking or credit histories or with adverse banking histories.

(ii) *Usage of deposit products responsive to the needs of low- and moderate-income individuals.* The Board considers the usage of a bank's deposit products responsive to the needs of low- and moderate-income individuals, families, or households based on the following information:

(A) The number of responsive deposit accounts opened and closed during each year of the evaluation period in low-, moderate-, middle-, and upper-income census tracts;

(B) In connection with paragraph (c)(3)(ii)(A) of this section, the percentage of responsive deposit accounts compared to total deposit accounts for each year of the evaluation period;

(C) Marketing, partnerships, and other activities that the bank has undertaken to promote awareness and use of responsive deposit accounts by low- and moderate-income individuals, families, or households; and

(D) Optionally, any other information the bank provides that demonstrates usage of the bank's deposit products that have features and cost characteristics responsive to the needs of low- and moderate-income individuals, families, or households and low- and moderate-income census tracts.

(d) *Retail Services and Products Test performance conclusions and ratings—(1) Conclusions.* Pursuant to § 228.28 and appendix C to this part, the Board assigns

conclusions for a bank's Retail Services and Products Test performance in each facility-based assessment area, State and multistate MSA, as applicable, and for the institution. In assigning conclusions under this performance test, the Board may consider performance context information as provided in § 228.21(d). The evaluation of a bank's retail banking products under paragraph (c) of this section may only contribute positively to the bank's Retail Services and Products Test conclusion.

(2) *Ratings.* Pursuant to § 228.28 and appendix D to this part, the Board incorporates a bank's Retail Services and Products Test conclusions into its State or multistate MSA ratings, as applicable, and its institution rating.

§ 228.24 Community development financing test.

(a) *Community Development Financing Test*—(1) *In general.* Pursuant to § 228.21, the Community Development Financing Test evaluates the bank's record of helping to meet the credit needs of its entire community through community development loans and community development investments (*i.e.*, the bank's community development financing performance).

(2) *Allocation.* The Board considers community development loans and community development investments allocated pursuant to paragraph I.b of appendix B to this part.

(b) *Facility-based assessment area evaluation.* The Board evaluates a bank's community development financing performance in a facility-based assessment area using the metric in paragraph (b)(1) of this section, benchmarks in paragraph (b)(2) of this section, and a review of the impact and responsiveness of the bank's community development loans and community development investments in paragraph (b)(3) of this section, and assigns a conclusion for a facility-based assessment area pursuant to paragraph d.1 of appendix C to this part.

(1) *Bank Assessment Area Community Development Financing Metric.* The Bank Assessment Area Community Development Financing Metric measures the dollar volume of a bank's community development loans and community development investments that

benefit or serve a facility-based assessment area compared to deposits in the bank that are located in the facility-based assessment area, calculated pursuant to paragraph II.a of appendix B to this part.

(2) *Benchmarks.* The Board compares the Bank Assessment Area Community Development Financing Metric to the following benchmarks:

(i) *Assessment Area Community Development Financing Benchmark.* For each of a bank's facility-based assessment areas, the Assessment Area Community Development Financing Benchmark measures the dollar volume of community development loans and community development investments that benefit or serve the facility-based assessment area for all large depository institutions compared to deposits located in the facility-based assessment area for all large depository institutions, calculated pursuant to paragraph II.b of appendix B to this part.

(ii) *MSA and Nonmetropolitan Nationwide Community Development Financing Benchmarks.* (A) For each of a bank's facility-based assessment areas within an MSA, the MSA Nationwide Community Development Financing Benchmark measures the dollar volume of community development loans and community development investments that benefit or serve MSAs in the nationwide area for all large depository institutions compared to deposits located in the MSAs in the nationwide area for all large depository institutions.

(B) For each of a bank's facility-based assessment areas within a nonmetropolitan area, the Nonmetropolitan Nationwide Community Development Financing Benchmark measures the dollar volume of community development loans and community development investments that benefit or serve nonmetropolitan areas in the nationwide area for all large depository institutions compared to deposits located in nonmetropolitan areas in the nationwide area for all large depository institutions.

(C) The Board calculates the MSA and Nonmetropolitan Nationwide Community Development Financing Benchmarks pursuant to paragraph II.c of appendix B to this part.

(3) *Impact and responsiveness review.* The Board reviews the impact and responsiveness of a bank's community development loans and community development investments that benefit or serve a facility-based assessment area, as provided in § 228.15.

(c) *State evaluation.* The Board evaluates a bank's community development financing performance in a State, pursuant to §§ 228.19 and 228.28(c), using the two components in paragraphs (c)(1) and (2) of this section and assigns a conclusion for each State based on a weighted combination of those components pursuant to paragraph II.p of appendix B to this part.

(1) *Component one—weighted average of facility-based assessment area performance conclusions in a State.* The Board considers the weighted average of the performance scores corresponding to the bank's Community Development Financing Test conclusions for its facility-based assessment areas within the State, pursuant to section IV of appendix B to this part.

(2) *Component two—State performance.* The Board considers a bank's community development financing performance in a State using the metric and benchmarks in paragraphs (c)(2)(i) and (ii) of this section and a review of the impact and responsiveness of the bank's community development loans and community development investments in paragraph (c)(2)(iii) of this section.

(i) *Bank State Community Development Financing Metric.* The Bank State Community Development Financing Metric measures the dollar volume of a bank's community development loans and community development investments that benefit or serve all or part of a State compared to deposits in the bank that are located in the State, calculated pursuant to paragraph II.d of appendix B to this part.

(ii) *Benchmarks.* The Board compares the Bank State Community Development Financing Metric to the following benchmarks:

(A) *State Community Development Financing Benchmark.* The State Community Development Financing Benchmark measures the dollar volume of community development loans and community development investments

that benefit or serve all or part of a State for all large depository institutions compared to deposits located in the State for all large depository institutions, calculated pursuant to paragraph II.e of appendix B to this part.

(B) *State Weighted Assessment Area Community Development Financing Benchmark.* The State Weighted Assessment Area Community Development Financing Benchmark is the weighted average of the bank's Assessment Area Community Development Financing Benchmarks for each facility-based assessment area within the State, calculated pursuant to paragraph II.f of appendix B to this part.

(iii) *Impact and responsiveness review.* The Board reviews the impact and responsiveness of the bank's community development loans and community development investments that benefit or serve a State, as provided in § 228.15.

(d) *Multistate MSA evaluation.* The Board evaluates a bank's community development financing performance in a multistate MSA, pursuant to §§ 228.19 and 228.28(c), using the two components in paragraphs (d)(1) and (2) of this section and assigns a conclusion in each multistate MSA based on a weighted combination of those components pursuant to paragraph II.p of appendix B to this part.

(1) *Component one—weighted average of facility-based assessment area performance in a multistate MSA.* The Board considers the weighted average of the performance scores corresponding to the bank's Community Development Financing Test conclusions for its facility-based assessment areas within the multistate MSA, calculated pursuant to section IV of appendix B to this part.

(2) *Component two—multistate MSA performance.* The Board considers a bank's community development financing performance in a multistate MSA using the metric and benchmarks in paragraphs (d)(2)(i) and (ii) of this section and a review of the impact and responsiveness of the bank's community development loans and community development investments in paragraph (d)(2)(iii) of this section.

(i) *Bank Multistate MSA Community Development Financing Metric.* The

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Bank Multistate MSA Community Development Financing Metric measures the dollar volume of a bank's community development loans and community development investments that benefit or serve a multistate MSA compared to deposits in the bank located in the multistate MSA, calculated pursuant to paragraph II.g of appendix B to this part.

(ii) *Benchmarks.* The Board compares the Bank Multistate MSA Community Development Financing Metric to the following benchmarks:

(A) *Multistate MSA Community Development Financing Benchmark.* The Multistate MSA Community Development Financing Benchmark measures the dollar volume of community development loans and community development investments that benefit or serve a multistate MSA for all large depository institutions compared to deposits located in the multistate MSA for all large depository institutions, calculated pursuant to paragraph II.h of appendix B to this part.

(B) *Multistate MSA Weighted Assessment Area Community Development Financing Benchmark.* The Multistate MSA Weighted Assessment Area Community Development Financing Benchmark is the weighted average of the bank's Assessment Area Community Development Financing Benchmarks for each facility-based assessment area within the multistate MSA, calculated pursuant to paragraph II.i of appendix B to this part.

(iii) *Impact and responsiveness review.* The Board reviews the impact and responsiveness of the bank's community development loans and community development investments that benefit or serve a multistate MSA, as provided in § 228.15.

(e) *Nationwide area evaluation.* The Board evaluates a bank's community development financing performance in the nationwide area, pursuant to § 228.19, using the two components in paragraphs (e)(1) and (2) of this section and assigns a conclusion for the institution based on a weighted combination of those components pursuant to paragraph II.p of appendix B to this part.

(1) *Component one—weighted average of facility-based assessment area perform-*

ance in the nationwide area. The Board considers the weighted average of the performance scores corresponding to the bank's conclusions for the Community Development Financing Test for its facility-based assessment areas within the nationwide area, calculated pursuant to section IV of appendix B to this part.

(2) *Component two—nationwide area performance.* The Board considers a bank's community development financing performance in the nationwide area using the metrics and benchmarks in paragraphs (e)(2)(i) through (iv) of this section and a review of the impact and responsiveness of the bank's community development loans and community development investments in paragraph (e)(2)(v) of this section.

(i) *Bank Nationwide Community Development Financing Metric.* The Bank Nationwide Community Development Financing Metric measures the dollar volume of the bank's community development loans and community development investments that benefit or serve all or part of the nationwide area compared to deposits in the bank located in the nationwide area, calculated pursuant to paragraph II.j of appendix B to this part.

(ii) *Community Development Financing Benchmarks.* The Board compares the Bank Nationwide Community Development Financing Metric to the following benchmarks:

(A) *Nationwide Community Development Financing Benchmark.* The Nationwide Community Development Financing Benchmark measures the dollar volume of community development loans and community development investments that benefit or serve all or part of the nationwide area for all large depository institutions compared to the deposits located in the nationwide area for all large depository institutions, calculated pursuant to paragraph II.k of appendix B to this part.

(B) *Nationwide Weighted Assessment Area Community Development Financing Benchmark.* The Nationwide Weighted Assessment Area Community Development Financing Benchmark is the weighted average of the bank's Assessment Area Community Development Financing Benchmarks for each facility-based assessment area within the

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nationwide area, calculated pursuant to paragraph II.l of appendix B to this part.

(iii) *Bank Nationwide Community Development Investment Metric.* For a large bank that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years, the Bank Nationwide Community Development Investment Metric measures the dollar volume of the bank's community development investments that benefit or serve all or part of the nationwide area, excluding mortgage-backed securities, compared to the deposits in the bank located in the nationwide area, calculated pursuant to paragraph II.m of appendix B to this part.

(iv) *Nationwide Community Development Investment Benchmark.* (A) For a large bank that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years, the Board compares the Bank Nationwide Community Development Investment Metric to the Nationwide Community Development Investment Benchmark. This comparison may only contribute positively to the bank's Community Development Financing Test conclusion for the institution.

(B) The Nationwide Community Development Investment Benchmark measures the dollar volume of community development investments that benefit or serve all or part of the nationwide area, excluding mortgage-backed securities, of all large depository institutions that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years compared to deposits located in the nationwide area for those depository institutions, calculated pursuant to paragraph II.n of appendix B to this part.

(v) *Impact and responsiveness review.* The Board reviews the impact and responsiveness of the bank's community development loans and community development investments that benefit or serve the nationwide area, as provided in § 228.15.

(f) *Community Development Financing Test performance conclusions and ratings—(1) Conclusions.* Pursuant to § 228.28 and appendix C to this part, the Board assigns conclusions for a bank's Community Development Financing Test performance in each facility-based

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assessment area, each State or multistate MSA, as applicable, and for the institution. In assigning conclusions under this performance test, the Board may consider performance context information as provided in § 228.21(d).

(2) *Ratings.* Pursuant to § 228.28 and appendix D to this part, the Board incorporates a bank's Community Development Financing Test conclusions into its State or multistate MSA ratings, as applicable, and its institution rating.

§ 228.25 Community development services test.

(a) *Community Development Services Test—(1) In general.* Pursuant to § 228.21, the Community Development Services Test evaluates a bank's record of helping to meet the community development services needs of its entire community.

(2) *Allocation.* The Board considers information provided by the bank and may consider publicly available information and information provided by government or community sources that demonstrates that a community development service benefits or serves a facility-based assessment area, State, or multistate MSA, or the nationwide area.

(b) *Facility-based assessment area evaluation.* The Board evaluates a bank's community development services performance in a facility-based assessment area and assigns a conclusion for a facility-based assessment area, by considering one or more of the following:

(1) The number of community development services attributable to each type of community development described in § 228.13(b) through (1);

(2) The capacities in which a bank's or its affiliate's board members or employees serve (*e.g.*, board member of a nonprofit organization, technical assistance, financial education, general volunteer);

(3) Total hours of community development services performed by the bank;

(4) Any other evidence demonstrating that the bank's community development services are responsive to community development needs, such as the

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number of low- and moderate-income individuals that are participants, or number of organizations served; and

(5) The impact and responsiveness of the bank's community development services that benefit or serve the facility-based assessment area, as provided in § 228.15.

(c) *State, multistate MSA, or nationwide area evaluation.* The Board evaluates a bank's community development services performance in a State or multistate MSA, as applicable, or nationwide area, and assigns a conclusion for those areas, based on the following two components:

(1) *Component one—weighted average of facility-based assessment area performance in a State, multistate MSA, or nationwide area.* The Board considers the weighted average of the performance scores corresponding to the bank's Community Development Services Test conclusions for its facility-based assessment areas within a State, multistate MSA, or the institution pursuant to section IV of appendix B to this part.

(2) *Component two—evaluation of community development services outside of facility-based assessment areas.* The Board may adjust upwards the conclusion based on the weighted average derived under paragraph (c)(1) of this section and an evaluation of the bank's community development services performed outside of its facility-based assessment areas pursuant to § 228.19, which may consider one or more of the factors in paragraphs (b)(1) through (5) of this section.

(d) *Community Development Services Test performance conclusions and ratings—(1) Conclusions.* Pursuant to § 228.28 and appendix C to this part, the Board assigns conclusions for a bank's Community Development Services Test performance in each facility-based assessment area, each State or multistate MSA, as applicable, and for the institution. In assigning conclusions under this performance test, the Board may consider performance context information as provided in § 228.21(d).

(2) *Ratings.* Pursuant to § 228.28 and appendix D to this part, the Board incorporates a bank's Community Development Services Test conclusions into

its State or multistate MSA ratings, as applicable, and its institution rating.

§ 228.26 Limited purpose banks.

(a) *Bank request for designation as a limited purpose bank.* To receive a designation as a limited purpose bank, a bank must file a written request with the Board at least 90 days prior to the proposed effective date of the designation. If the Board approves the designation, it remains in effect until the bank requests revocation of the designation or until one year after the Board notifies a limited purpose bank that the Board has revoked the designation on the Board's own initiative.

(b) *Performance evaluation—(1) In general.* To evaluate a limited purpose bank, the Board applies the Community Development Financing Test for Limited Purpose Banks as described in paragraphs (c) through (f) of this section.

(2) *Additional consideration—(i) Community development services.* The Board may adjust a limited purpose bank's institution rating from "Satisfactory" to "Outstanding" where a bank requests and receives additional consideration for services that would qualify under the Community Development Services Test in § 228.25.

(ii) *Additional consideration for low-cost education loans.* A limited purpose bank may request and receive additional consideration at the institution level for providing low-cost education loans to low-income borrowers pursuant to 12 U.S.C. 2903(d), regardless of the limited purpose bank's overall institution rating.

(c) *Community Development Financing Test for Limited Purpose Banks—(1) In general.* Pursuant to § 228.21, the Community Development Financing Test for Limited Purpose Banks evaluates a limited purpose bank's record of helping to meet the credit needs of its entire community through community development loans and community development investments (*i.e.*, the bank's community development financing performance).

(2) *Allocation.* The Board considers community development loans and community development investments allocated pursuant to paragraph I.b of appendix B to this part.

(d) *Facility-based assessment area evaluation.* The Board evaluates a limited purpose bank's community development financing performance in a facility-based assessment area and assigns a conclusion in the facility-based assessment area based on the Board's:

(1) Consideration of the dollar volume of the limited purpose bank's community development loans and community development investments that benefit or serve the facility-based assessment area; and

(2) A review of the impact and responsiveness of the limited purpose bank's community development loans and community development investments that benefit or serve a facility-based assessment area, as provided in § 228.15.

(e) *State or multistate MSA evaluation.* The Board evaluates a limited purpose bank's community development financing performance in each State or multistate MSA, as applicable pursuant to §§ 228.19 and 228.28(c), and assigns a conclusion for the bank's performance in the State or multistate MSA based on the Board's consideration of the following two components:

(1) *Component one—facility-based assessment area performance conclusions in a State or multistate MSA.* A limited purpose bank's community development financing performance in its facility-based assessment areas in the State or multistate MSA; and

(2) *Component two—State or multistate MSA performance.* The dollar volume of the limited purpose bank's community development loans and community development investments that benefit or serve the State or multistate MSA and a review of the impact and responsiveness of those loans and investments, as provided in § 228.15.

(f) *Nationwide area evaluation.* The Board evaluates a limited purpose bank's community development financing performance in the nationwide area, pursuant to § 228.19, and assigns a conclusion for the institution based on the Board's consideration of the following two components:

(1) *Component one—facility-based assessment area performance.* The limited purpose bank's community development financing performance in all of its facility-based assessment areas; and

(2) *Component two—nationwide area performance.* The limited purpose bank's community development financing performance in the nationwide area based on the following metrics and benchmarks in paragraphs (f)(2)(i) through (iv) of this section and a review of the impact and responsiveness of the bank's community development loans and community development investments in paragraph (f)(2)(v) of this section.

(i) *Limited Purpose Bank Community Development Financing Metric.* The Limited Purpose Bank Community Development Financing Metric measures the dollar volume of a bank's community development loans and community development investments that benefit or serve all or part of the nationwide area compared to the bank's assets calculated pursuant to paragraph III.a of appendix B to this part.

(ii) *Community Development Financing Benchmarks.* The Board compares the Limited Purpose Bank Community Development Financing Metric to the following benchmarks:

(A) *Nationwide Limited Purpose Bank Community Development Financing Benchmark.* The Nationwide Limited Purpose Bank Community Development Financing Benchmark measures the dollar volume of community development loans and community development investments of depository institutions designated as limited purpose banks or savings associations pursuant to 12 CFR 25.26(a) or designated as limited purpose banks pursuant to paragraph (a) of this section or 12 CFR 345.26(a) reported pursuant to § 228.42(b) or 12 CFR 25.42(b) or 345.42(b) that benefit and serve all or part of the nationwide area compared to assets for those depository institutions, calculated pursuant to paragraph III.b of appendix B to this part; and

(B) *Nationwide Asset-Based Community Development Financing Benchmark.* The Nationwide Asset-Based Community Development Financing Benchmark measures the dollar volume of community development loans and community development investments that benefit or serve all or part of the nationwide area of all depository institutions that reported pursuant to § 228.42(b) or 12 CFR 25.42(b) or 345.42(b)

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compared to assets for those depository institutions, calculated pursuant to paragraph III.c of appendix B to this part.

(iii) *Limited Purpose Bank Community Development Investment Metric.* For a limited purpose bank that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years, the Limited Purpose Bank Community Development Investment Metric measures the dollar volume of the bank's community development investments that benefit or serve all or part of the nationwide area, excluding mortgage-backed securities, compared to the bank's assets, calculated pursuant to paragraph III.d of appendix B to this part.

(iv) *Nationwide Asset-Based Community Development Investment Benchmark.* (A) For a limited purpose bank that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years, the Board compares the Limited Purpose Bank Community Development Investment Metric to the Nationwide Asset-Based Community Development Investment Benchmark. This comparison may only contribute positively to the bank's Community Development Financing Test for Limited Purpose Banks conclusion for the institution.

(B) The Nationwide Asset-Based Community Development Investment Benchmark measures the dollar volume of community development investments that benefit or serve all or part of the nationwide area, excluding mortgage-backed securities, of all depository institutions that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years, compared to assets for those depository institutions, calculated pursuant to paragraph III.e of appendix B to this part.

(v) *Impact and responsiveness review.* The Board reviews the impact and responsiveness of the bank's community development loans and community development investments that benefit or serve the nationwide area, as provided in § 228.15.

(g) *Community Development Financing Test for Limited Purpose Banks performance conclusions and ratings—(1) Conclusions.* Pursuant to § 228.28 and appendix

C to this part, the Board assigns conclusions for a limited purpose bank's Community Development Financing Test for Limited Purpose Banks performance in each facility-based assessment area, each State or multistate MSA, as applicable, and for the institution. In assigning conclusions under this performance test, the Board may consider performance context information as provided in § 228.21(d).

(2) *Ratings.* Pursuant to § 228.28 and appendix D to this part, the Board incorporates a limited purpose bank's Community Development Financing Test for Limited Purpose Banks conclusions into its State or multistate MSA ratings, as applicable, and its institution rating.

§ 228.27 Strategic plan.

(a) *Alternative election.* Pursuant to § 228.21, the Board evaluates a bank's record of helping to meet the credit needs of its entire community under a strategic plan, if:

(1) The Board has approved the plan pursuant to this section;

(2) The plan is in effect; and

(3) The bank has been operating under an approved plan for at least one year.

(b) *Data requirements.* The Board's approval of a plan does not affect the bank's obligation, if any, to collect, maintain, and report data as required by § 228.42.

(c) *Plans in general—(1) Term.* A plan may have a term of not more than five years.

(2) *Performance tests in plan.* (i) A bank's plan must include the same performance tests that would apply in the absence of an approved plan, except as provided in paragraph (g)(1) of this section.

(ii) Consistent with paragraph (g) of this section, a bank's plan may include optional evaluation components or eligible modifications and additions to the performance tests that would apply in the absence of an approved plan.

(3) *Assessment areas and other geographic areas—(i) Multiple geographic areas.* A bank may prepare a single plan or separate plans for its facility-based assessment areas, retail lending assessment areas, outside retail lending area, or other geographic areas

that would be evaluated in the absence of an approved plan.

(ii) *Geographic areas not included in a plan.* Any facility-based assessment area, retail lending assessment area, outside retail lending area, or other geographic area that would be evaluated in the absence of an approved plan, but is not included in an approved plan, will be evaluated pursuant to the performance tests that would apply in the absence of an approved plan.

(4) *Operations subsidiaries and affiliates*—(i) *Operations subsidiaries.* The loans, investments, services, and products of a bank's operations subsidiary must be included in the bank's plan, unless the operations subsidiary is independently subject to CRA requirements.

(ii) *Affiliates*—(A) *Optional inclusion of other affiliates' loans, investments, services, and products.* Consistent with § 228.21(b)(3), a bank may include loans, investments, services, and products of affiliates of a bank that are not operations subsidiaries in a plan, if those loans, investments, services, and products are not included in the CRA performance evaluation of any other depository institution.

(B) *Joint plans.* Affiliated depository institutions supervised by the same Federal financial supervisory agency may prepare a joint plan, provided that the plan includes, for each bank, the applicable performance tests that would apply in the absence of an approved plan. The joint plan may include optional evaluation components or eligible modifications and additions to the performance tests that would apply in the absence of an approved plan.

(C) *Allocation.* The inclusion of an affiliate's loans, investments, services, and products in a bank's plan, or in a joint plan of affiliated depository institutions, is subject to the following:

(1) The loans, investments, services, and products may not be included in the CRA performance evaluation of another depository institution; and

(2) The allocation of loans, investments, services, and products to a bank, or among affiliated banks, must reflect a reasonable basis for the allocation and may not be for the sole or

primary purpose of inappropriately enhancing any bank's CRA evaluation.

(d) *Justification and appropriateness of plan election*—(1) *Justification requirements.* A bank's plan must provide a justification that demonstrates the need for the following aspects of a plan due to the bank's business model (*e.g.*, its retail banking services and retail banking products):

(i) Optional evaluation components pursuant to paragraph (g)(1) of this section;

(ii) Eligible modifications or additions to the applicable performance tests pursuant to paragraph (g)(2) of this section;

(iii) Additional geographic areas pursuant to paragraph (g)(3) of this section; and

(iv) The conclusions and ratings methodology pursuant to paragraph (g)(6) of this section.

(2) *Justification elements.* Each justification must specify the following:

(i) Why the bank's business model is outside the scope of, or inconsistent with, one or more aspects of the performance tests that would apply in the absence of an approved plan;

(ii) Why an evaluation of the bank pursuant to any aspect of a plan in paragraph (d)(1) of this section would more meaningfully reflect a bank's record of helping to meet the credit needs of its community than if it were evaluated under the performance tests that would apply in the absence of an approved plan; and

(iii) Why the optional performance components and eligible modifications or additions meet the standards of paragraphs (g)(1) and (2) of this section, as applicable.

(e) *Public participation in initial draft plan development*—(1) *In general.* Before submitting a draft plan to the Board for approval pursuant to paragraph (h) of this section, a bank must:

(i) Informally seek suggestions from members of the public while developing the plan;

(ii) Once the bank has developed its initial draft plan, formally solicit public comment on the initial draft plan for at least 60 days by:

(A) Submitting the initial draft plan for publication on the Board's website and by publishing the initial draft plan

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on the bank's website, if the bank maintains one; and

(B)(1) Except as provided in paragraph (e)(1)(ii)(B)(2) of this section, publishing notice in at least one print newspaper of general circulation (if available, otherwise a digital publication) in each facility-based assessment area covered by the plan; and

(2) For a military bank, publishing notice in at least one print newspaper of general circulation targeted to members of the military (if available, otherwise a digital publication targeted to members of the military); and

(iii) Include in the notice required under paragraph (e)(1)(ii) of this section a means by which members of the public can electronically submit and mail comments to the bank on its initial draft plan.

(2) *Availability of initial draft plan.* During the period when the bank is formally soliciting public comment on its initial draft plan, the bank must make copies of the initial draft plan available for review at no cost at all offices of the bank in any facility-based assessment area covered by the plan and provide copies of the initial draft plan upon request for a reasonable fee to cover copying and mailing, if applicable.

(f) *Submission of a draft plan.* The bank must submit its draft plan to the Board at least 90 days prior to the proposed effective date of the plan. The bank must also submit with its draft plan:

(1) Proof of notice publication and a description of its efforts to seek input from members of the public, including individuals and organizations the bank contacted and how the bank gathered information;

(2) Any written comments or other public input received;

(3) If the bank revised the initial draft plan in response to the public input received, the initial draft plan as released for public comment with an explanation of the relevant changes; and

(4) If the bank did not revise the initial draft plan in response to suggestions or concerns from public input received, an explanation for why any suggestion or concern was not addressed in the draft plan.

(g) *Plan content.* In addition to meeting the requirements in paragraphs (c) and (d) of this section, the plan must meet the following requirements:

(1) *Applicable performance tests and optional evaluation components.* A bank must include in its plan a focus on the credit needs of its entire community, including low- and moderate-income individuals, families, or households, low- and moderate-income census tracts, and small businesses and small farms. The bank must describe how its plan is responsive to the characteristics and credit needs of its facility-based assessment areas, retail lending assessment areas, outside retail lending area, or other geographic areas served by the bank, considering public comment and the bank's capacity and constraints, product offerings, and business strategy. As applicable, a bank must specify components in its plan for helping to meet:

(i) The retail lending needs of its facility-based assessment areas, retail lending assessment areas, and outside retail lending area that are covered by the plan. A bank that originates or purchases loans in a product line evaluated pursuant to the Retail Lending Test in §228.22 or originates or purchases loans evaluated pursuant to the Small Bank Lending Test in §228.29(a)(2) must include the applicable test in its plan, subject to eligible modifications or additions specified in paragraph (g)(2) of this section.

(ii) The retail banking services and retail banking products needs of its facility-based assessment areas and at the institution level that are covered by the plan.

(A) A large bank that maintains delivery systems evaluated pursuant to the Retail Services and Products Test in §228.23(b) must include this component of the test in its plan, subject to eligible modifications or additions specified in paragraph (g)(2) of this section.

(B) A large bank that does not maintain delivery systems evaluated pursuant to the Retail Services and Products Test in §228.23(b) may include retail banking products components in §228.23(c) and accompanying annual measurable goals in its plan.

(C) A bank other than a large bank may include components of retail banking services or retail banking products and accompanying annual measurable goals in its plan.

(iii) The community development loan and community development investment needs of its facility-based assessment areas, States, or multistate MSAs, as applicable, and the nationwide area that are covered by the plan. Subject to eligible modifications or additions as provided in paragraph (g)(2) of this section:

(A) A large bank must include the Community Development Financing Test in § 228.24 in its plan.

(B) An intermediate bank must include either the Community Development Financing Test in § 228.24 or the Intermediate Bank Community Development Test in § 228.30(a)(2) in its plan.

(C) A limited purpose bank must include the Community Development Financing Test for Limited Purpose Banks in § 228.26 in its plan.

(D) A small bank may include a community development loan or community development investment component and accompanying annual measurable goals in its plan.

(iv) The community development services needs of its facility-based assessment areas served by the bank that are covered by the plan.

(A) A large bank must include the Community Development Services Test in § 228.25 in its plan, subject to eligible modifications or additions as provided in paragraph (g)(2) of this section, for each facility-based assessment area where the bank has employees.

(B) A bank other than a large bank may include a community development services component and accompanying annual measurable goals in its plan.

(2) *Eligible modifications or additions to applicable performance tests—(i) Retail lending.* (A) For a bank that the Board would otherwise evaluate pursuant to the Small Bank Lending Test in § 228.29(a)(2):

(1) A bank may omit, as applicable, the evaluation of performance criteria related to the loan-to-deposit ratio or the percentage of loans located in the bank's facility-based assessment area(s).

(2) A bank may add annual measurable goals for any aspect of the bank's retail lending.

(B) For a bank the Board would otherwise evaluate pursuant to the Retail Lending Test in § 228.22:

(1) A bank may add additional loan products, such as non-automobile consumer loans or open-end home mortgage loans, or additional goals for major product lines, such as closed-end home mortgage loans to first-time homebuyers, with accompanying annual measurable goals.

(2) Where annual measurable goals for additional loan products or additional goals for major product lines have been added pursuant to paragraph (g)(2)(i)(B)(1) of this section, a bank may provide different weights for averaging together the performance across these loan products and may include those loan products in the numerator of the Bank Volume Metric.

(3) A bank may use alternative weights for combining the borrower and geographic distribution analyses for major product line(s) or other loan products.

(ii) *Retail banking services and retail banking products.* (A) A large bank may add annual measurable goals for any component of the Retail Services and Products Test in § 228.23.

(B) A large bank may modify the Retail Services and Products Test by removing a component of the test.

(C) A large bank may assign specific weights to applicable components in paragraph (g)(2)(ii)(A) of this section in reaching a Retail Services and Products Test conclusion.

(D) A bank other than a large bank may include retail banking services or retail banking products component(s) and accompanying annual measurable goals in its plan.

(iii) *Community development loans and community development investments.* (A) A bank may specify annual measurable goals for community development loans, community development investments, or both. The bank must base any annual measurable goals as a percentage or ratio of the bank's community development loans and community development investments for all or certain types of community development described in § 228.13(b) through (1),

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presented either on a combined or separate basis, relative to the bank's capacity and should account for community development needs and opportunities.

(B) A bank may specify using assets as an alternative denominator for a community development financing metric if it better measures a bank's capacity.

(C) A bank may specify additional benchmarks to evaluate a community development financing metric.

(D) A small bank may include community development loans, community development investments, or both, and accompanying annual measurable goals in its plan.

(iv) *Community development services.*

(A) A bank may specify annual measurable goals for community development services activity, by number of activity hours, number of hours per full-time equivalent employee, or some other measure.

(B) A bank other than a large bank may include a community development services component and accompanying annual measurable goals in its plan.

(v) *Weights for assessing performance across geographic areas.* A bank may specify alternative weights for averaging test performance across assessment areas or other geographic areas. These alternative weights must be based on the bank's capacity and community needs and opportunities in specific geographic areas.

(vi) *Test weights.* For ratings at the State, multistate MSA, and institution levels pursuant to § 228.28(b) and paragraph g.2 of appendix D to this part, as applicable:

(A) A bank may request an alternate weighting method for combining performance under the applicable performance tests and optional evaluation components. In specifying alternative test weights for each applicable test, a bank must emphasize retail lending, community development financing, or both. Alternative weights must be responsive to the characteristics and credit needs of a bank's assessment areas and public comments and must be based on the bank's capacity and constraints, product offerings, and business strategy.

(B) A bank that requests an alternate weighting method pursuant to para-

graph (g)(2)(vi)(A) of this section must compensate for decreasing the weight under one test by committing to enhance its efforts to help meet the credit needs of its community under another performance test.

(3) *Geographic coverage of plan.* (i) A bank may incorporate performance evaluation components and accompanying annual measurable goals for additional geographic areas but may not eliminate the evaluation of its performance in any geographic area that would be included in its performance evaluation in the absence of an approved plan.

(ii) If a large bank is no longer required to delineate a retail lending assessment area previously identified in the plan as a result of not meeting the required retail lending assessment area thresholds pursuant to § 228.17, the Board will not evaluate the bank for its performance in that area for the applicable years of the plan in which the area is no longer a retail lending assessment area.

(iii) A bank that includes additional performance evaluation components with accompanying annual measurable goals in its plan must specify the geographic areas where those components and goals apply.

(4) *Confidential information.* A bank may submit additional information to the Board on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the Board to judge the merits of the plan.

(5) *"Satisfactory" and "Outstanding" performance goals.* A bank that includes modified or additional performance evaluation components with accompanying annual measurable goals in its plan must specify in its plan annual measurable goals that constitute "Satisfactory" performance and may specify annual measurable goals that constitute "Outstanding" performance.

(6) *Conclusions and rating methodology.* A bank must specify in its plan how all elements of a plan covered in paragraphs (g)(1) through (5) of this section, in conjunction with any other applicable performance tests not included in an approved strategic plan, should be considered to assign:

(i) *Conclusions.* Pursuant to § 228.28 and appendix C to this part, the Board assigns conclusions for each facility-based assessment area, retail lending assessment area, outside retail lending area, State, and multistate MSA, as applicable, and the institution. In assigning conclusions under a strategic plan, the Board may consider performance context information as provided in § 228.21(d).

(ii) *Ratings.* Pursuant to § 228.28 and paragraph f of appendix D to this part, the Board incorporates the conclusions of a bank evaluated under an approved plan into its State or multistate MSA ratings, as applicable, and its institution rating, accounting for paragraph g.2 of appendix D to this part, as applicable.

(h) *Draft plan evaluation—(1) Timing.* The Board seeks to act upon a draft plan within 90 calendar days after the Board receives the complete draft plan and other materials required pursuant to paragraph (f) of this section. If the Board does not act within this time period, the Board will communicate to the bank the rationale for the delay and an expected timeframe for a decision on the draft plan.

(2) *Public participation.* In evaluating the draft plan, the Board considers:

(i) The public's involvement in formulating the draft plan, including specific information regarding the members of the public and organizations the bank contacted and how the bank collected information relevant to the draft plan;

(ii) Written public comments and other public input on the draft plan;

(iii) Any response by the bank to public input on the draft plan; and

(iv) Whether to solicit additional public input or require the bank to provide any additional response to public input already received.

(3) *Criteria for evaluating plan for approval.* (i) The Board evaluates all plans using the following criteria:

(A) The extent to which the plan meets the standards set forth in this section; and

(B) The extent to which the plan has adequately justified the need for a plan and each aspect of the plan as required in paragraph (d) of this section.

(ii) The Board evaluates a plan under the following criteria, as applicable, considering performance context information pursuant to § 228.21(d):

(A) The extent and breadth of retail lending or retail lending-related activities to address credit needs, including the distribution of loans among census tracts of different income levels, businesses and farms of different sizes, and individuals of different income levels, pursuant to §§ 228.22, and 228.29, as applicable;

(B) The effectiveness of the bank's systems for delivering retail banking services and the availability and responsiveness of the bank's retail banking products, pursuant to § 228.23, as applicable;

(C) The extent, breadth, impact, and responsiveness of the bank's community development loans and community development investments, pursuant to §§ 228.24, 228.26, and 228.30, as applicable; and

(D) The number, hours, and types of community development services performed and the extent to which the bank's community development services are impactful and responsive, pursuant to §§ 228.25 and 228.30, as applicable.

(4) *Plan decisions—(i) Approval.* The Board may approve a plan after considering the criteria in paragraph (h)(3) of this section and if it determines that the bank has provided adequate justification for the plan and each aspect of the plan as required in paragraph (d) of this section.

(ii) *Denial.* The Board may deny a bank's request to be evaluated under a plan for any of the following reasons:

(A) The Agency determines that the bank has not provided adequate justification for the plan and each aspect of the plan as required pursuant to paragraph (d) of this section;

(B) The Board determines that evaluation under the plan would not provide a more meaningful reflection of the bank's record of helping to meet the credit needs of the bank's community;

(C) The plan is not responsive to public comment received pursuant to paragraph (e) of this section;

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(D) The Board determines that the plan otherwise fails to meet the requirements of this section; or

(E) The bank fails to provide information requested by the Board that is necessary for the Board to make an informed decision.

(5) *Publication of approved plan.* The Board will publish an approved plan on the Board's website.

(i) *Plan amendment—(1) Mandatory plan amendment.* During the term of a plan, a bank must submit to the Board for approval an amendment to its plan if a material change in circumstances:

(i) Impedes its ability to perform at a satisfactory level under the plan, such as financial constraints caused by significant events that impact the local or national economy; or

(ii) Significantly increases its financial capacity and ability to engage in retail lending, retail banking services, retail banking products, community development loans, community development investments, or community development services referenced in an approved plan, such as a merger or consolidation.

(2) *Elective plan amendment.* During the term of a plan, a bank may request the Board to approve an amendment to the plan in the absence of a material change in circumstances.

(3) *Requirements for plan amendments—*

(i) *Amendment explanation.* When submitting a plan amendment for approval, a bank must explain:

(A) The material change in circumstances necessitating the amendment; or

(B) Why it is necessary and appropriate to amend its plan in the absence of a material change in circumstances.

(ii) *Compliance requirement.* An amendment to a plan must comply with all relevant requirements of this section, unless the Board waives a requirement as not applicable.

(j) *Performance evaluation under a plan—(1) In general.* The Board evaluates a bank's performance under an approved plan based on the performance tests that would apply in the absence of an approved plan and any optional evaluation components or eligible modifications and additions to the applicable performance tests set forth in the bank's approved plan.

(2) *Goal considerations.* If a bank established annual measurable goals and does not meet one or more of its satisfactory goals, the Board will consider the following factors to determine the effect on a bank's CRA performance evaluation:

(i) The degree to which the goal was not met;

(ii) The importance of the unmet goals to the plan as a whole; and

(iii) Any circumstances beyond the control of the bank, such as economic conditions or other market factors or events, that have adversely impacted the bank's ability to perform.

(3) *Ratings.* The Board rates the performance of a bank under this section pursuant to appendix D to this part.

[Reg. BB, 89 FR 7188, Feb. 1, 2024, as amended at 89 FR 22068, Mar. 29, 2024]

§ 228.28 Assigned conclusions and ratings.

(a) *Conclusions—(1) State, multistate MSA, and institution test conclusions and performance scores—(i) In general.* For each of the applicable performance tests pursuant to §§ 228.22 through 228.26 and 228.30, the Board assigns conclusions and associated test performance scores of "Outstanding," "High Satisfactory," "Low Satisfactory," "Needs to Improve," or "Substantial Noncompliance" for the performance of a bank in each State and multistate MSA, as applicable pursuant to paragraph (c) of this section, and for the institution.

(ii) *Small banks.* The Board assigns conclusions of "Outstanding," "Satisfactory," "Needs to Improve," or "Substantial Noncompliance" for the performance of a small bank evaluated under the Small Bank Lending Test in § 228.29(a)(2) in each State and multistate MSA, as applicable pursuant to paragraph (c) of this section, and for the institution pursuant to § 228.29 and appendix E to this part.

(iii) *Banks operating under a strategic plan.* The Board assigns conclusions for the performance of a bank operating under a strategic plan pursuant to § 228.27 in each State and multistate

MSA, as applicable pursuant to paragraph (c) of this section, and for the institution in accordance with the methodology of the plan and appendix C to this part.

(2) *Bank performance in metropolitan and nonmetropolitan areas.* Pursuant to 12 U.S.C. 2906, the Board provides conclusions derived under this part separately for metropolitan areas in which a bank maintains one or more domestic branch offices and for the nonmetropolitan area of a State if a bank maintains one or more domestic branch offices in such nonmetropolitan area.

(b) *Ratings*—(1) *In general.* The Board assigns a rating for a bank's overall CRA performance of "Outstanding," "Satisfactory," "Needs to Improve," or "Substantial Noncompliance" in each State and multistate MSA, as applicable pursuant to paragraph (c) of this section, and for the institution, as provided in this section and appendices D and E to this part. The ratings assigned by the Board reflect the bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank.

(2) *State, multistate MSA, and institution ratings and overall performance scores.* (i) For large banks, intermediate banks, small banks that opt into the Retail Lending Test in § 228.22, and limited purpose banks, the Board calculates and discloses the bank's overall performance score for each State and multistate MSA, as applicable, and for the institution. The Board uses a bank's overall performance scores described in this section to assign a rating for the bank's overall performance in each State and multistate MSA, as applicable, and for the institution, subject to paragraphs (d) and (e) of this section.

(ii) Overall performance scores are based on the bank's performance score for each applicable performance test and derived as provided in paragraph (b)(3) of this section, as applicable, and appendix D to this part.

(3) *Weighting of performance scores.* In calculating a large bank's or intermediate bank's overall performance score for each State and multistate MSA, as applicable, and the institu-

tion, the Board weights the performance scores for the bank for each applicable performance test as provided in paragraphs (b)(3)(i) and (ii) of this section.

(i) *Large bank performance test weights.* The Board weights the bank's performance score for the performance tests applicable to a large bank as follows:

- (A) Retail Lending Test, 40 percent;
- (B) Retail Services and Products Test, 10 percent;
- (C) Community Development Financing Test, 40 percent; and
- (D) Community Development Services Test, 10 percent.

(ii) *Intermediate bank performance test weights.* The Board weights the bank's performance score for the performance tests applicable to an intermediate bank as follows:

- (A) Retail Lending Test, 50 percent; and
- (B) Intermediate Bank Community Development Test or Community Development Financing Test, as applicable, 50 percent.

(4) *Minimum conclusion requirements*—(i) *Retail Lending Test minimum conclusion.* An intermediate bank or a large bank must receive at least a "Low Satisfactory" Retail Lending Test conclusion for the State, multistate MSA, or institution to receive, respectively, a State, multistate MSA, or institution rating of "Satisfactory" or "Outstanding."

(ii) *Minimum of "Low Satisfactory" overall facility-based assessment area and retail lending assessment area conclusion.* (A) For purposes of this paragraph (b)(4)(ii)(A), the Board assigns a large bank an overall conclusion for each facility-based assessment area and, as applicable, each retail lending assessment area, as provided in paragraph g.2.ii of appendix D to this part.

(B) Except as provided in § 228.51(e), a large bank with a combined total of 10 or more facility-based assessment areas and retail lending assessment areas in any State or multistate MSA, as applicable, or for the institution may not receive a rating of "Satisfactory" or "Outstanding" in that State or multistate MSA, as applicable, or for the institution, unless the bank receives an overall conclusion of at least

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“Low Satisfactory” in 60 percent or more of the total number of its facility-based assessment areas and retail lending assessment areas in that State or multistate MSA, as applicable, or for the institution.

(c) *Conclusions and ratings for States and multistate MSAs*—(1) *States*—(i) *In general*. Except as provided in paragraph (c)(1)(ii) of this section, the Board evaluates a bank and assigns conclusions and ratings for any State in which the bank maintains a main office, branch, or deposit-taking remote service facility.

(ii) *States with rated multistate MSAs*. The Board evaluates a bank and assigns conclusions and ratings for a State only if the bank maintains a main office, branch, or deposit-taking remote service facility outside the portion of the State comprising any multistate MSA identified in paragraph (c)(2) of this section. In evaluating a bank and assigning conclusions and ratings for a State, the Board does not consider activities to be in the State if those activities take place in the portion of the State comprising any multistate MSA identified in paragraph (c)(2) of this section.

(iii) *States with non-rated multistate MSAs*. If a facility-based assessment area of a bank comprises a geographic area spanning two or more States within a multistate MSA that is not identified in paragraph (c)(2) of this section, the Board considers activities in the entire facility-based assessment area to be in the State in which the bank maintains, within the multistate MSA, a main office, branch, or deposit-taking remote service facility. In evaluating a bank and assigning conclusions and ratings for a State, the Board does not consider activities to be in the State if those activities take place in any facility-based assessment area that is considered to be in another State pursuant to this paragraph (c)(1)(iii).

(iv) *States with multistate retail lending assessment areas*. In assigning Retail Lending Test conclusions for a State pursuant to § 228.22(h), the Board does not consider a bank’s activities to be in the State if those activities take place in a retail lending assessment area consisting of counties in more than one State.

(2) *Rated multistate MSAs*. The Board evaluates a bank and assigns conclusions and ratings under this part in any multistate MSA in which the bank maintains a main office, a branch, or a deposit-taking remote service facility in two or more States within that multistate MSA.

(d) *Effect of evidence of discriminatory or other illegal credit practices*—(1) *Scope*. For each State and multistate MSA, as applicable, and the institution, the Board’s evaluation of a bank’s performance under this part is adversely affected by evidence of discriminatory or other illegal credit practices, as provided in paragraph (d)(2) of this section. The Board considers evidence of discriminatory or other illegal credit practices described in this section by:

(i) The bank, including by an operations subsidiary of the bank; or

(ii) Any other affiliate related to any activities considered in the evaluation of the bank.

(2) *Discriminatory or other illegal credit practices*. For purposes of paragraph (d)(1) of this section, discriminatory or other illegal credit practices consist of the following:

(i) Discrimination on a prohibited basis, including in violation of the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*) or the Fair Housing Act (42 U.S.C. 3601 *et seq.*);

(ii) Violations of the Home Ownership and Equity Protection Act (15 U.S.C. 1639);

(iii) Violations of section 5 of the Federal Trade Commission Act (15 U.S.C. 45);

(iv) Violations of section 1031 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5531, 5536);

(v) Violations of section 8 of the Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*);

(vi) Violations of the Truth in Lending Act (15 U.S.C. 1601 *et seq.*);

(vii) Violations of the Military Lending Act (10 U.S.C. 987);

(viii) Violations of the Servicemembers Civil Relief Act (50 U.S.C. 3901 *et seq.*); and

(ix) Any other violation of a law, rule, or regulation consistent with the types of violations in paragraphs

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(d)(2)(i) through (viii) of this section, as determined by the Board.

(3) *Agency considerations.* In determining the effect of evidence of discriminatory or other illegal credit practices described in paragraph (d)(1) of this section on the bank’s assigned State, multistate MSA, and institution ratings, the Board will consider:

(i) The root cause or causes of any such violations of law, rule, or regulation;

(ii) The severity of any harm to any communities, individuals, small businesses, and small farms resulting from such violations;

(iii) The duration of time over which the violations occurred;

(iv) The pervasiveness of the violations;

(v) The degree to which the bank, operations subsidiary, or affiliate, as applicable, has established an effective compliance management system across the institution to self-identify risks and to take the necessary actions to reduce the risk of noncompliance and harm to communities, individuals, small businesses, and small farms; and

(vi) Any other relevant information.

(e) *Consideration of past performance.* When assigning ratings, the Board considers a bank’s past performance. If a bank’s prior rating was “Needs to Improve,” the Board may determine that a “Substantial Noncompliance” rating is appropriate where the bank failed to improve its performance since the previous evaluation period, with no acceptable basis for such failure.

§ 228.29 Small bank performance evaluation.

(a) *Small bank performance evaluation—(1) In general.* The Board evaluates a small bank’s record of helping to meet the credit needs of its entire community pursuant to the Small Bank Lending Test as provided in paragraph (a)(2) of this section, unless the small bank opts to be evaluated pursuant to the Retail Lending Test in § 228.22.

(2) *Small Bank Lending Test.* A small bank’s retail lending performance is evaluated pursuant to the following criteria:

(i) The bank’s loan-to-deposit ratio, adjusted for seasonal variation, and, as appropriate, other retail and commu-

nity development lending-related activities, such as loan originations for sale to the secondary markets, community development loans, or community development investments;

(ii) The percentage of loans and, as appropriate, other retail and community development lending-related activities located in the bank’s facility-based assessment areas;

(iii) The bank’s record of lending to and, as appropriate, engaging in other retail and community development lending-related activities for borrowers of different income levels and businesses and farms of different sizes;

(iv) The geographic distribution of the bank’s loans; and

(v) The bank’s record of taking action, if warranted, in response to written complaints about its performance in helping to meet credit needs in its facility-based assessment areas.

(b) *Additional consideration—(1) Small banks evaluated pursuant to the Small Bank Lending Test.* The Board may adjust a small bank rating from “Satisfactory” to “Outstanding” at the institution level where the bank requests and receives additional consideration for the following activities, without regard to whether the activity is in one or more of the bank’s facility-based assessment areas, as applicable:

(i) Making community development investments;

(ii) Providing community development services; and

(iii) Providing branches and other services, digital delivery systems and other delivery systems, and deposit products responsive to the needs of low- and moderate-income individuals, families, or households, residents of low- and moderate-income census tracts, small businesses, and small farms.

(2) *Small banks that opt to be evaluated pursuant to the Retail Lending Test in § 228.22.* The Board may adjust a small bank rating from “Satisfactory” to “Outstanding” at the institution level where the bank requests and receives additional consideration for activities that would qualify pursuant to the Retail Services and Products Test in § 228.23, the Community Development

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Financing Test in § 228.24, or the Community Development Services Test in § 228.25.

(3) *Additional consideration for activities with MDIs, WDIs, and LICUs, and for providing low-cost education loans.* Notwithstanding paragraphs (b)(1) and (2) of this section, a small bank may request and receive additional consideration at the institution level for activities with MDIs, WDIs, and LICUs pursuant to 12 U.S.C. 2903(b) and 2907(a) and for providing low-cost education loans to low-income borrowers pursuant to 12 U.S.C. 2903(d), regardless of the small bank's overall institution rating.

(c) *Small bank performance conclusions and ratings*—(1) *Conclusions.* Except for a small bank that opts to be evaluated pursuant to the Retail Lending Test in § 228.22, the Board assigns conclusions for the performance of a small bank evaluated under this section as provided in appendix E to this part. If a bank opts to be evaluated pursuant to the Retail Lending Test, the Board assigns conclusions for the bank's Retail Lending Test performance as provided in appendix C to this part. In assigning conclusions for a small bank, the Board may consider performance context information as provided in § 228.21(d).

(2) *Ratings.* For a small bank evaluated under the Small Bank Lending Test, the Board rates the bank's performance under this section as provided in appendix E to this part. If a small bank opts to be evaluated under the Retail Lending Test in § 228.22, the Board rates the performance of a small bank as provided in appendix D to this part.

§ 228.30 Intermediate bank performance evaluation.

(a) *Intermediate bank performance evaluation*—(1) *In general.* The Board evaluates an intermediate bank's record of helping to meet the credit needs of its entire community pursuant to the Retail Lending Test in § 228.22 and the Intermediate Bank Community Development Test as provided in paragraph (a)(2) of this section, unless an intermediate bank opts to be evaluated pursuant to the Community Development Financing Test in § 228.24.

(2) *Intermediate Bank Community Development Test.* (i) An intermediate bank's community development performance is evaluated pursuant to the following criteria:

(A) The number and dollar amount of community development loans;

(B) The number and dollar amount of community development investments;

(C) The extent to which the bank provides community development services; and

(D) The bank's responsiveness through such community development loans, community development investments, and community development services to community development needs. The Board's evaluation of the responsiveness of the bank's activities is informed by information provided by the bank, and may be informed by the impact and responsiveness review factors described in § 228.15(b).

(ii) The Board considers an intermediate bank's community development loans, community development investments, and community development services without regard to whether the activity is made in one or more of the bank's facility-based assessment areas. The extent of the Board's consideration of community development loans, community development investments, and community development services outside of the bank's facility-based assessment areas will depend on the adequacy of the bank's responsiveness to community development needs and opportunities within the bank's facility-based assessment areas and applicable performance context information.

(b) *Additional consideration*—(1) *Intermediate banks evaluated pursuant to the Intermediate Bank Community Development Test.* The Board may adjust the rating of an intermediate bank evaluated as provided in paragraph (a)(2) of this section from "Satisfactory" to "Outstanding" at the institution level where the bank requests and receives additional consideration for activities that would qualify pursuant to the Retail Services and Products Test in § 228.23.

(2) *Intermediate banks evaluated pursuant to the Community Development Financing Test.* The Board may adjust the rating of an intermediate bank that

opts to be evaluated pursuant to the Community Development Financing Test in § 228.24 from “Satisfactory” to “Outstanding” at the institution level where the bank requests and receives additional consideration for activities that would qualify pursuant to the Retail Services and Products Test in § 228.23, the Community Development Services Test in § 228.25, or both.

(3) *Additional consideration for low-cost education loans.* Notwithstanding paragraphs (b)(1) and (2) of this section, an intermediate bank may request and receive additional consideration at the institution level for providing low-cost education loans to low-income borrowers pursuant to 12 U.S.C. 2903(d), regardless of the intermediate bank’s overall institution rating.

(c) *Intermediate bank performance conclusions and ratings—(1) Conclusions.* The Board assigns a conclusion for the performance of an intermediate bank evaluated pursuant to this section as provided in appendices C and E to this part. In assigning conclusions for an intermediate bank, the Board may consider performance context information as provided in § 228.21(d).

(2) *Ratings.* The Board rates the performance of an intermediate bank evaluated under this section as provided in appendix D to this part.

§ 228.31 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the Board takes into account the record of performance under the CRA of:

(1) Each applicant bank for the:

(i) Establishment of a domestic branch by a State member bank; and

(ii) Merger, consolidation, acquisition of assets, or assumption of liabilities requiring approval under the Bank Merger Act (12 U.S.C. 1828(c)) if the acquiring, assuming, or resulting bank is to be a State member bank; and

(2) Each insured depository institution (as defined in 12 U.S.C. 1813) controlled by an applicant and subsidiary bank or savings association proposed to be controlled by an applicant:

(i) To become a bank holding company in a transaction that requires ap-

proval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842);

(ii) To acquire ownership or control of shares or all or substantially all of the assets of a bank, to cause a bank to become a subsidiary of a bank holding company, or to merge or consolidate a bank holding company with any other bank holding company in a transaction that requires approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842);

(iii) To own, control, or operate a savings association in a transaction that requires approval under section 4 of the Bank Holding Company Act (12 U.S.C. 1843);

(iv) To become a savings and loan holding company in a transaction that requires approval under section 10 of the Home Owners’ Loan Act (12 U.S.C. 1467a); and

(v) To acquire ownership or control of shares or all or substantially all of the assets of a savings association, to cause a savings association to become a subsidiary of a savings and loan holding company, or to merge or consolidate a savings and loan holding company with any other savings and loan holding company in a transaction that requires approval under section 10 of the Home Owners’ Loan Act (12 U.S.C. 1467a).

(b) *Interested parties.* In considering CRA performance in an application described in paragraph (a) of this section, the Board takes into account any views expressed by interested parties that are submitted in accordance with the Board’s Rules of Procedure set forth in 12 CFR part 262.

(c) *Denial or conditional approval of application.* A bank or savings association’s record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

(d) *Definitions.* For purposes of paragraphs (a)(2)(i) through (iii) of this section, “bank,” “bank holding company,” “subsidiary,” and “savings association” have the same meanings given to those terms in section 2 of the Bank Holding Company Act (12 U.S.C. 1841). For purposes of paragraphs (a)(2)(iv) and (v) of this section, “savings and loan holding company” and “subsidiary” have the same meaning

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given to those terms in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a).

Subpart D—Records, Reporting, Disclosure, and Public Engagement Requirements

§ 228.42 Data collection, reporting, and disclosure.

(a) *Information required to be collected and maintained*—(1) *Small business loans and small farm loans data.* A large bank must collect and maintain in electronic form, as prescribed by the Board, until the completion of the bank's next CRA examination in which the data are evaluated, the following data for each small business loan or small farm loan originated or purchased by the bank during the evaluation period:

- (i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
- (ii) An indicator for the loan type as reported on the bank's Call Report or Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, as applicable.
- (iii) The date of the loan origination or purchase;
- (iv) The loan amount at origination or purchase;
- (v) The loan location, including State, county, and census tract;
- (vi) An indicator for whether the loan was originated or purchased by the bank;
- (vii) An indicator for whether the loan was to a business or farm with gross annual revenues of \$250,000 or less;
- (viii) An indicator for whether the loan was to a business or farm with gross annual revenues greater than \$250,000 but less than or equal to \$1 million;
- (ix) An indicator for whether the loan was to a business or farm with gross annual revenues greater than \$1 million; and
- (x) An indicator for whether the loan was to a business or farm for which gross annual revenues are not known by the bank.

(2) *Consumer loans data—automobile loans*—(i) *Large banks.* A large bank for which automobile loans are a product

line must collect and maintain in electronic form, as prescribed by the Board, until the completion of the bank's next CRA examination in which the data is evaluated, the data described in paragraphs (a)(2)(iii)(A) through (F) of this section for each automobile loan originated or purchased by the bank during the evaluation period.

(ii) *Intermediate or small banks.* An intermediate bank or a small bank for which automobile loans are a product line may collect and maintain in a format of the bank's choosing, including in an electronic form prescribed by the Board, until the completion of the bank's next CRA examination in which the data are evaluated, the data described in paragraphs (a)(2)(iii)(A) through (F) of this section for each automobile loan originated or purchased by the bank during the evaluation period.

(iii) *Data collected and maintained.* Data collected and maintained pursuant to paragraph (a)(2)(i) or (ii) of this section include the following:

- (A) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;
- (B) The date of the loan origination or purchase;
- (C) The loan amount at origination or purchase;
- (D) The loan location, including State, county, and census tract;
- (E) An indicator for whether the loan was originated or purchased by the bank; and
- (F) The gross annual income relied on in making the credit decision.

(3) *Home mortgage loans.* (i) If a large bank is subject to reporting under 12 CFR part 1003, the bank must collect and maintain, in electronic form, as prescribed by the Board, until the completion of the bank's next CRA examination in which the data are evaluated, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank has a home or branch office (or outside any MSA) pursuant to the requirements in 12 CFR 1003.4(e).

(ii) If a large bank is not subject to reporting under 12 CFR part 1003 due to the location of its branches, but would otherwise meet the Home Mortgage

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Disclosure Act (HMDA) size and lending activity requirements pursuant to 12 CFR part 1003, the bank must collect and maintain, in electronic form, as prescribed by the Board, until the completion of the bank's next CRA examination in which the data are evaluated, the following data, for each closed-end home mortgage loan, excluding multifamily loans, originated or purchased during the evaluation period:

(A) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(B) The date of the loan origination or purchase;

(C) The loan amount at origination or purchase;

(D) The location of each home mortgage loan origination or purchase, including State, county, and census tract;

(E) The gross annual income relied on in making the credit decision; and

(F) An indicator for whether the loan was originated or purchased by the bank.

(4) *Retail banking services and retail banking products data*—(i) *Branches and remote service facilities*. A large bank must collect and maintain in electronic form, as prescribed by the Board, until completion of the bank's next CRA examination in which the data are evaluated, the following data with respect to retail banking services and retail banking products offered and provided by the bank during each calendar year:

(A) Location of branches, main offices described in § 228.23(a)(2), and remote service facilities. Location information must include:

(1) Street address;

(2) City;

(3) County;

(4) State;

(5) Zip code; and

(6) Census tract;

(B) An indicator for whether each branch is full-service or limited-service, and for each remote service facility whether it is deposit-taking, cash-advancing, or both;

(C) Locations and dates of branch, main office described in § 228.23(a)(2), and remote service facility openings and closings, as applicable;

(D) Hours of operation of each branch, main office described in § 228.23(a)(2), and remote service facility, as applicable; and

(E) Services offered at each branch or main office described in § 228.23(a)(2) that are responsive to low- and moderate-income individuals, families, or households and low- and moderate-income census tracts.

(ii) *Digital delivery systems and other delivery systems data*—(A) *In general*. A large bank that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years, a large bank that had assets less than or equal to \$10 billion as of December 31 in either of the prior two calendar years that does not operate any branches or a main office described in § 228.23(a)(2), and a large bank that had assets less than or equal to \$10 billion as of December 31 in either of the prior two calendar years that requests additional consideration for digital delivery systems and other delivery systems pursuant to § 228.23(b)(4), must collect and maintain in electronic form, as prescribed by the Board, until the completion of the bank's next CRA examination in which the data are evaluated, the data described in paragraph (a)(4)(ii)(B) of this section. A bank may opt to collect and maintain additional data pursuant to paragraph (a)(4)(ii)(C) of this section in a format of the bank's own choosing.

(B) *Required data*. Pursuant to paragraph (a)(4)(ii)(A) of this section, a bank must collect and maintain the following data:

(1) The range of retail banking services and retail banking products offered through digital delivery systems and other delivery systems; and

(2) The digital delivery systems and other delivery systems activity by individuals, families, or households in low-, moderate-, middle-, and upper-income census tracts, as evidenced by:

(i) The number of checking and savings accounts opened digitally and through other delivery systems by census tract income level for each calendar year; and

(ii) The number of checking and savings accounts opened digitally and through other delivery systems that are active at the end of each calendar

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year by census tract income level for each calendar year.

(C) *Optional data.* Pursuant to paragraph (a)(4)(ii)(A) of this section, a bank may collect and maintain any additional information not required in paragraph (a)(4)(ii)(B) of this section that demonstrates that digital delivery systems and other delivery systems serve low- and moderate-income individuals, families, or households and low- and moderate-income census tracts.

(iii) *Data for deposit products responsive to the needs of low- and moderate-income individuals, families, or households—(A) In general.* A large bank that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years and a large bank that had assets less than or equal to \$10 billion as of December 31 in either of the prior two calendar years that requests additional consideration for deposit products responsive to the needs of low- and moderate-income individuals, families, or households pursuant to § 228.23(c)(3), must collect and maintain in electronic form, as prescribed by the Board, until the completion of the bank's next CRA examination in which the data are evaluated, the data described in paragraph (a)(4)(iii)(B) of this section. A bank may opt to collect and maintain additional data pursuant to paragraph (a)(4)(iii)(C) of this section in a format of the bank's choosing.

(B) *Required data.* Pursuant to paragraph (a)(4)(iii)(A) of this section, a bank must collect and maintain the following data:

(1) The number of responsive deposit accounts opened and closed during each year of the evaluation period in low-, moderate-, middle-, and upper-income census tracts; and

(2) In connection with paragraph (a)(4)(iii)(B)(1) of this section, the percentage of responsive deposit accounts compared to total deposit accounts for each year of the evaluation period.

(C) *Optional data.* Pursuant to paragraph (a)(4)(iii)(A) of this section, a bank may collect and maintain any other information that demonstrates the availability and usage of the bank's deposit products responsive to the needs of low- and moderate-income individuals, families, or households and

low- and moderate-income census tracts.

(5) *Community development loans and community development investments data.* (i)(A) A large bank and a limited purpose bank that would be a large bank based on the asset size described in the definition of a large bank, must collect and maintain in electronic form, as prescribed by the Board, until the completion of the bank's next CRA examination in which the data are evaluated, the data listed in paragraph (a)(5)(ii) of this section for community development loans and community development investments originated, purchased, refinanced, renewed, or modified by the bank during the evaluation period.

(B) An intermediate bank that opts to be evaluated under the Community Development Financing Test in § 228.24 must collect and maintain in the format used by the bank in the normal course of business, until the completion of the bank's next CRA examination in which the data are evaluated, the data listed in paragraph (a)(5)(ii) of this section for community development loans and community development investments originated, purchased, refinanced, renewed, or modified by the bank during the evaluation period.

(ii) Pursuant to paragraphs (a)(5)(i)(A) and (B) of this section, a bank must collect and maintain, on an annual basis, the following data for community development loans and community development investments:

(A) General information on the loan or investment:

(1) A unique number or alpha-numeric symbol that can be used to identify the loan or investment;

(2) Date of origination, purchase, refinance, or renewal of the loan or investment;

(3) Date the loan or investment was sold or paid off; and

(4) The dollar amount of:

(i) A community development loan originated or purchased, or a community development investment made, including a legally binding commitment to extend credit or a legally binding commitment to invest, in the calendar year, as described in paragraph I.a.1.i of appendix B to this part;

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(ii) Any increase in the calendar year to an existing community development loan that is refinanced or renewed or to an existing community development investment that is renewed;

(iii) The outstanding balance of a community development loan originated, purchased, refinanced, or renewed in previous years or community development investment made or renewed in previous years, as of December 31 for each year that the loan or investment remains on the bank's balance sheet; or

(iv) The outstanding balance, less any increase reported in paragraph (a)(5)(ii)(A)(4)(ii) of this section in the same calendar year, of a community development loan refinanced or renewed in a year subsequent to the year of origination or purchase, as of December 31 of the calendar year for each year that the loan remains on the bank's balance sheet; or an existing community development investment renewed in a year subsequent to the year the investment was made as of December 31 for each year that the investment remains on the bank's balance sheet.

(B) Community development loan or community development investment information:

- (1) Name of organization or entity;
- (2) Activity type (loan or investment);

(3) The type of community development described in § 228.13(b) through (1); and

(4) Community development loan or community development investment detail, such as the specific type of financing and type of entity supported (e.g., LIHTC, NMTC, Small Business Investment Company, multifamily mortgage, private business, or mission-driven nonprofit organization, mortgage-backed security, or other).

(C) Indicators of the impact and responsiveness, including whether the community development loan or community development investment:

- (1) Benefits or serves one or more persistent poverty counties;
- (2) Benefits or serves one or more census tracts with a poverty rate of 40 percent or higher;

(3) Benefits or serves one or more geographic areas with low levels of community development financing;

(4) Supports an MDI, WDI, LICU, or CDFI, excluding certificates of deposit with a term of less than one year;

(5) Benefits or serves low-income individuals, families, or households;

(6) Supports small businesses or small farms with gross annual revenues of \$250,000 or less;

(7) Directly facilitates the acquisition, construction, development, preservation, or improvement of affordable housing in High Opportunity Areas;

(8) Benefits or serves residents of Native Land Areas;

(9) Is a grant or donation;

(10) Is an investment in a project financed with LIHTCs or NMTCs;

(11) Reflects bank leadership through multi-faceted or instrumental support; or

(12) Is a new community development financing product that addresses community development needs for low- or moderate-income individuals, families, or households.

(D) Specific location information, if applicable:

(1) Street address;

(2) City;

(3) County;

(4) State;

(5) Zip code; and

(6) Census tract.

(E) Allocation of the dollar amount of the community development loan or community development investment to geographic areas served by the loan or investment:

(1) A list of the geographic areas served by the community development loan or community development investment, specifying any county, State, multistate MSA, or nationwide area served; and

(2) Specific information about the dollar amount of the community development loan or community development investment that was allocated to each county served by the loan or investment, if available.

(F) Other information relevant to determining that the community development loan or community development investment meets the standards pursuant to § 228.13.

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(6) *Community development services data.* A large bank must collect and maintain, in a format of the bank's choosing or in a standardized format, as provided by the Board, until the completion of the bank's next CRA examination in which the data are evaluated, the following community development services data:

(i) Community development services information as follows:

(A) Date of service;

(B) Number of board member or employee service hours;

(C) Name of organization or entity;

(D) The type of community development described in § 228.13(b) through (l);

(E) Capacity in which a bank's or its affiliate's board member or employee serves (*e.g.*, board member of a non-profit organization, technical assistance, financial education, general volunteer); and

(F) Indicators of the impact and responsiveness, including whether the community development service:

(1) Benefits or serves one or more persistent poverty counties;

(2) Benefits or serves one or more census tracts with a poverty rate of 40 percent or higher;

(3) Benefits or serves one or more geographic areas with low levels of community development financing;

(4) Supports an MDI, WDI, LICU, or CDFI, excluding certificates of deposit with a term of less than one year;

(5) Benefits or serves low-income individuals, families, or households;

(6) Supports small businesses or small farms with gross annual revenues of \$250,000 or less;

(7) Directly facilitates the acquisition, construction, development, preservation, or improvement of affordable housing in High Opportunity Areas;

(8) Benefits or serves residents of Native Land Areas;

(9) Reflects bank leadership through multi-faceted or instrumental support; or

(10) Is a new community development service that addresses community development needs for low- or moderate-income individuals, families, or households.

(ii) Location information as follows:

(A) *Location list.* A list of the geographic areas served by the activity,

specifying any census tracts, counties, States, or nationwide area served; and

(B) *Geographic-level.* Whether the bank is seeking consideration in a facility-based assessment area, State, multistate MSA, or nationwide area.

(7) *Deposits data.* A large bank that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years must collect and maintain annually, in electronic form, as prescribed by the Board, until the completion of the bank's next CRA examination in which the data are evaluated, the dollar amount of its deposits at the county level based on deposit location. The bank allocates the deposits for which a deposit location is not available to the nationwide area. Annual deposits must be calculated based on average daily balances as provided in statements such as monthly or quarterly statements. Any other bank that opts to collect and maintain the data in this paragraph (a)(7) must do so in the same form and for the same duration as described in this paragraph (a)(7).

(b) *Information required to be reported—(1) Small business loan and small farm loan data.* A large bank must report annually by April 1 to the Board in electronic form, as prescribed by the Board, the small business loan and small farm loan data described in paragraphs (b)(1)(i) through (vii) of this section for the prior calendar year. For each census tract in which the bank originated or purchased a small business loan or small farm loan, the bank must report the aggregate number and dollar amount of small business loans and small farm loans:

(i) With an amount at origination of \$100,000 or less;

(ii) With an amount at origination of greater than \$100,000 but less than or equal to \$250,000;

(iii) With an amount at origination of greater than \$250,000;

(iv) To businesses and farms with gross annual revenues of \$250,000 or less (using the revenues relied on in making the credit decision);

(v) To businesses and farms with gross annual revenues greater than \$250,000 but less than or equal to \$1 million (using the revenues relied on in making the credit decision);

(vi) To businesses and farms with gross annual revenues greater than \$1 million; and

(vii) To businesses and farms for which gross annual revenues are not known by the bank.

(2) *Community development loans and community development investments data.* A large bank and a limited purpose bank that would be a large bank based on the asset size described in the definition of a large bank must report annually by April 1 to the Board in electronic form, as prescribed by the Board, the community development loan and community development investment data described in paragraph (a)(5)(ii) of this section for the prior calendar year, except for the data described in paragraph (a)(5)(ii)(B)(1) of this section and paragraphs (a)(5)(ii)(D)(1) through (5) of this section.

(3) *Deposits data.* (i) A large bank that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years must report annually by April 1 to the Board in electronic form, as prescribed by the Board, the deposits data for the prior calendar year collected and maintained pursuant to paragraph (a)(7) of this section. This reporting must include, for each county, State, and multistate MSA, and for the institution overall, the average annual deposit balances (calculated based on average daily balances as provided in statements such as monthly or quarterly statements, as applicable), in aggregate, of deposit accounts with associated addresses located in such county, State, or multistate MSA, where available, and for the institution overall. Any other bank that opts to collect and maintain the data in paragraph (a)(7) of this section must report these data in the same form and for the same duration as described in this paragraph (b)(3)(i).

(ii) A bank that reports deposits data pursuant to paragraph (b)(3)(i) of this section for which a deposit location is not available must report these deposits at the nationwide area.

(c) *Data on operations subsidiaries.* To the extent that its operations subsidiaries engage in retail banking services, retail banking products, community development lending, community de-

velopment investments, or community development services, a bank must collect, maintain, and report these loans, investments, services, and products of its operations subsidiaries pursuant to paragraphs (a) and (b) of this section, as applicable, for purposes of evaluating the bank's performance. For home mortgage loans, the bank must identify the home mortgage loans reported by its operations subsidiary under 12 CFR part 1003, if applicable, or collect and maintain data on home mortgage loans by its operations subsidiary that the bank would have collected and maintained pursuant to paragraph (a)(3) of this section had the bank originated or purchased the loans.

(d) *Data on other affiliates.* A bank that elects to have the Board consider retail banking services, retail banking products, community development lending, community development investments, or community development services engaged in by affiliates of a bank (other than an operations subsidiary), for purposes of this part must collect, maintain, and report the data that the bank would have collected, maintained, and reported pursuant to paragraphs (a) and (b) of this section had the loans, investments, services, or products been engaged in by the bank. For home mortgage loans, the bank must identify the home mortgage loans reported by bank affiliates under 12 CFR part 1003, if applicable, or collect and maintain data on home mortgage loans by the affiliate that the bank would have collected and maintained pursuant to paragraphs (a)(3) of this section had the loans been originated or purchased by the bank.

(e) *Data on community development loans and community development investments by a consortium or a third party.* A bank that elects to have the Board consider community development loans and community development investments by a consortium or third party for purposes of this part must collect, maintain, and report the loans and investments data that the bank would have collected, maintained, and reported pursuant to paragraphs (a)(5) and (b)(2) of this section had the bank originated, purchased, refinanced, or renewed the loans or investments.

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(f) *Assessment area data*—(1) *Facility-based assessment areas*. A large bank and a limited purpose bank that would be a large bank based on the asset size described in the definition of a large bank must collect and report to the Board annually by April 1 a list of each facility-based assessment area showing the States, MSAs, and counties in the facility-based assessment area, as of December 31 of the prior calendar year or the last date the facility-based assessment area was in effect, provided the facility-based assessment area was delineated for at least six months of the prior calendar year.

(2) *Retail lending assessment areas*. A large bank must collect and report to the Board annually by April 1 a list of each retail lending assessment area showing the States, MSAs, and counties in the retail lending assessment area for the prior calendar year.

(g) *CRA Disclosure Statement*. The Board or its appointed agent, prepares annually, for each bank that reports data pursuant to this section, a CRA Disclosure Statement that contains, on a State-by-State basis:

(1) For each county with a population of 500,000 persons or fewer in which the bank reported a small business loan or a small farm loan:

(i) The number and dollar volume of small business loans and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income census tracts;

(ii) A list grouping each census tract according to whether the census tract is low-, moderate-, middle-, or upper-income;

(iii) A list showing each census tract in which the bank reported a small business loan or a small farm loan;

(iv) The number and dollar volume of small business loans and small farm loans to businesses and farms with gross annual revenues of \$250,000 or less; and

(v) The number and dollar volume of small business loans and small farm loans to businesses and farms with gross annual revenues greater than \$250,000 but less than or equal to \$1 million;

(2) For each county with a population in excess of 500,000 persons in which the

bank reported a small business loan or a small farm loan:

(i) The number and dollar volume of small business loans and small farm loans reported as originated or purchased located in census tracts with median income relative to the area median income of less than 10 percent, equal to or greater than 10 percent but less than 20 percent, equal to or greater than 20 percent but less than 30 percent, equal to or greater than 30 percent but less than 40 percent, equal to or greater than 40 percent but less than 50 percent, equal to or greater than 50 percent but less than 60 percent, equal to or greater than 60 percent but less than 70 percent, equal to or greater than 70 percent but less than 80 percent, equal to or greater than 80 percent but less than 90 percent, equal to or greater than 90 percent but less than 100 percent, equal to or greater than 100 percent but less than 110 percent, equal to or greater than 110 percent but less than 120 percent, and equal to or greater than 120 percent;

(ii) A list grouping each census tract in the county, facility-based assessment area, or retail lending assessment area according to whether the median income in the census tract relative to the area median income is less than 10 percent, equal to or greater than 10 percent but less than 20 percent, equal to or greater than 20 percent but less than 30 percent, equal to or greater than 30 percent but less than 40 percent, equal to or greater than 40 percent but less than 50 percent, equal to or greater than 50 percent but less than 60 percent, equal to or greater than 60 percent but less than 70 percent, equal to or greater than 70 percent but less than 80 percent, equal to or greater than 80 percent but less than 90 percent, equal to or greater than 90 percent but less than 100 percent, equal to or greater than 100 percent but less than 110 percent, equal to or greater than 110 percent but less than 120 percent, and equal to or greater than 120 percent; and

(iii) A list showing each census tract in which the bank reported a small business loan or a small farm loan;

(3) The number and dollar volume of small business loans and small farm loans located inside each facility-based

assessment area and retail lending assessment area reported by the bank and the number and dollar volume of small business loans and small farm loans located outside of the facility-based assessment areas and retail lending assessment areas reported by the bank; and

(4) The number and dollar volume of community development loans and community development investments reported as originated or purchased inside each facility-based assessment area, each State in which the bank has a branch, each multistate MSA in which a bank has a branch in two or more States of the multistate MSA, and nationwide area outside of these States and multistate MSAs.

(h) *Aggregate disclosure statements.* The Board or its appointed agent, prepares annually, for each MSA or metropolitan division (including an MSA or metropolitan division that crosses a State boundary) and the nonmetropolitan portion of each State, an aggregate disclosure statement of reported small business lending, small farm lending, community development lending, and community development investments by all depository institutions subject to reporting under this part or 12 CFR part 25 or 345. These disclosure statements indicate the number and dollar amount of all small business loans and small farm loans originated or purchased for each census tract and the number and dollar amount of all community development loans and community development investments for each county by reporting banks, except that the Board may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of a bank.

(i) *Availability of disclosure statements.* The Board makes the individual bank CRA Disclosure Statements, described in paragraph (g) of this section, and the aggregate disclosure statements, described in paragraph (h) of this section, available on the FFIEC’s website at: <https://www.ffiec.gov>.

(j) *HMDA data disclosure—(1) In general.* For a large bank required to report home mortgage loan data pursuant to 12 CFR part 1003, the Board will publish on the Board’s website the data

required by paragraph (j)(2) of this section concerning the distribution of a large bank’s originations and applications of home mortgage loans by borrower or applicant income level, race, and ethnicity in each of the bank’s facility-based assessment areas, and as applicable, its retail lending assessment areas. This information is published annually based on data reported pursuant to 12 CFR part 1003.

(2) *Data to be published on the Board’s website.* For each of the large bank’s facility-based assessment areas, and as applicable, its retail lending assessment areas, the Board publishes on the Board’s website:

(i) The number and percentage of originations and applications of the large bank’s home mortgage loans by borrower or applicant income level, race, and ethnicity;

(ii) The number and percentage of originations and applications of aggregate mortgage lending of all lenders reporting HMDA data in the facility-based assessment area and as applicable, the retail lending assessment area; and

(iii) Demographic data of the geographic area.

(3) *Announcement of data publication.* Upon publishing the data required pursuant to paragraphs (j)(1) and (2) of this section, the Board will publicly announce that the information is available on the Board’s public website.

(4) *Effect on CRA conclusions and ratings.* The race and ethnicity information published pursuant to paragraphs (j)(1) and (2) of this section does not impact the conclusions or ratings of the large bank.

EFFECTIVE DATE NOTE: At 89 FR 7189, Feb. 1, 2024, § 228.42 was amended by revising paragraph (a)(1); removing and reserving paragraph (b)(1); and in paragraphs (g)(1)(i) and (g)(2)(i), removing “small business loans and small farm loans reported as originated or purchased” and adding in its place “small business loans and small farm loans reported as originated”, effective date delayed indefinitely. For the convenience of the user, the revised text is set forth as follows:

§ 228.42 Data collection, reporting, and disclosure.

(a) * * *

(1) *Purchases of small business loans and small farm loans data.* A bank that opts to have the Board consider its purchases of

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small business loans and small farm loans must collect and maintain in electronic form, as prescribed by the Board, until the completion of the bank's next CRA examination in which the data are evaluated, the following data for each small business loan or small farm loan purchased by the bank during the evaluation period:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) An indicator for the loan type as reported on the bank's Call Report or on the bank's Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks, as applicable;

(iii) The date of the loan purchase;

(iv) The loan amount at purchase;

(v) The loan location, including State, county, and census tract;

(vi) An indicator for whether the purchased loan was to a business or farm with gross annual revenues of \$250,000 or less;

(vii) An indicator for whether the purchased loan was to a business or farm with gross annual revenues greater than \$250,000 but less than or equal to \$1 million;

(viii) An indicator for whether the purchased loan was to a business or farm with gross annual revenues greater than \$1 million; and

(ix) An indicator for whether the purchased loan was to a business or farm for which gross annual revenues are not known by the bank.

* * * * *

§ 228.43 Content and availability of public file.

(a) *Information available to the public.* A bank must maintain a public file, in either paper or digital format, that includes the following information:

(1) All written comments received from the public for the current year (updated on a quarterly basis for the prior quarter by March 31, June 30, September 30, and December 31) and each of the prior two calendar years that specifically relate to the bank's performance in helping to meet community credit needs, and any response to the comments by the bank, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the bank or publication of which would violate specific provisions of law;

(2) A copy of the public section of the bank's most recent CRA performance evaluation prepared by the Board. The

bank must include this copy in the public file within 30 business days after its receipt from the Board;

(3) A list of the bank's branches, their street addresses, and census tracts;

(4) A list of branches opened or closed by the bank during the current year (updated on a quarterly basis for the prior quarter by March 31, June 30, September 30, and December 31) and each of the prior two calendar years, their street addresses, and census tracts;

(5) A list of retail banking services (including hours of operation, available loan and deposit products, and transaction fees) generally offered at the bank's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. A bank may elect to include information regarding the availability of other systems for delivering retail banking services (for example, mobile or online banking, loan production offices, and bank-at-work or mobile branch programs);

(6) A map of each facility-based assessment area and, as applicable, each retail lending assessment area showing the boundaries of the area and identifying the census tracts contained in the area, either on the map or in a separate list; and

(7) Any other information the bank chooses.

(b) *Additional information available to the public*—(1) *Banks subject to data reporting requirements pursuant to § 228.42.* A bank subject to data reporting requirements pursuant to § 228.42 must include in its public file a written notice that the CRA Disclosure Statement pertaining to the bank, its operations subsidiaries, and its other affiliates, if applicable, may be obtained on the FFIEC's website at: <https://www.ffiec.gov>. The bank must include the written notice in the public file within three business days after receiving notification from the FFIEC of the availability of the disclosure statement.

(2) *Banks required to report HMDA data*—(i) *HMDA Disclosure Statement.* A bank required to report home mortgage loan data pursuant to 12 CFR part 1003 must include in its public file a written

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notice that the bank's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (CFPB's) website at: *https://www.consumerfinance.gov/hmda*. In addition, if the Board considered the home mortgage lending of a bank's operations subsidiaries or, at a bank's election, the Board considered the home mortgage lending of other bank affiliates, the bank must include in its public file the names of the operations subsidiaries and the names of the affiliates and a written notice that the operations subsidiaries' and other affiliates' HMDA Disclosure Statements may be obtained at the CFPB's website. The bank must include the written notices in the public file within three business days after receiving notification from the FFIEC of the availability of the disclosure statements.

(ii) *Availability of bank HMDA data.* A large bank required to report home mortgage loan data pursuant to 12 CFR part 1003 must include in its public file a written notice that the home mortgage loan data published by the Board under §228.42(j) are available at the Board's website.

(3) *Small banks.* A small bank, or a bank that was a small bank during the prior calendar year, must include in its public file the bank's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio.

(4) *Banks with strategic plans.* A bank that has been approved to be evaluated under a strategic plan must include in its public file a copy of that plan while it is in effect. A bank need not include information submitted to the Board on a confidential basis in conjunction with the plan.

(5) *Banks with less than "Satisfactory" ratings.* A bank that received a less than "Satisfactory" institution rating during its most recent examination must include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The bank must update the description quarterly by March 31, June 30, September 30, and December 31, respectively.

(c) *Location of public information.* A bank must make available to the pub-

lic for inspection, upon request and at no cost, the information required in this section as follows:

(1) For banks that maintain a website, all information required for the bank's public file under this section must be maintained on the bank's website.

(2) For banks that do not maintain a website:

(i) All the information required for the bank's public file must be maintained at the main office and, if an interstate bank, at one branch office in each State; and

(ii) At each branch, the following must be maintained:

(A) A copy of the public section of the bank's most recent CRA performance evaluation and a list of services provided by the branch; and

(B) Within five calendar days of the request, all the information that the bank is required to maintain under this section in the public file relating to the facility-based assessment area in which the branch is located.

(d) *Copies.* Upon request, a bank must provide copies, either on paper or in digital form acceptable to the person making the request, of the information in its public file. The bank may charge a reasonable fee not to exceed the cost of copying and mailing (if not provided in digital form).

(e) *Timing requirements.* Except as otherwise provided in this section, a bank must ensure that its public file contains the information required by this section for each of the previous three calendar years, with the most recent calendar year included in its file annually by April 1 of the current calendar year.

EFFECTIVE DATE NOTE: At 89 FR 7190, Feb. 1, 2024, §228.43 was amended by revising the heading of paragraph (b)(2) and adding paragraph (b)(2)(iii), effective date delayed indefinitely. For the convenience of the user, the added and revised text is set forth as follows:

§ 228.43 Content and availability of public file.

* * * * *

(b) * * *

(2) *Banks required to report HMDA data and small business lending data.* * * *

(iii) *Small business lending data notice.* A bank required to report small business loan

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or small farm loan data pursuant to 12 CFR part 1002 must include in its public file a written notice that the bank's small business loan and small farm loan data may be obtained on the CFPB's website at: <https://www.consumerfinance.gov/data-research/small-business-lending/>.

* * * * *

§ 228.44 Public notice by banks.

A bank must provide in the public area of its main office and each of its branches the appropriate public notice set forth in appendix F to this part. Only a branch of a bank having more than one facility-based assessment area must include the bracketed material in the notice for branch offices. Only a bank that is an affiliate of a holding company must include the next to the last sentence of the notices. A bank must include the last sentence of the notices only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional depository institutions.

§ 228.45 Publication of planned examination schedule.

The Board publishes on its public website, at least 30 days in advance of the beginning of each calendar quarter, a list of banks scheduled for CRA examinations for the next two quarters.

§ 228.46 Public engagement.

(a) *In general.* The Board encourages communication between members of the public and banks, including through members of the public submitting written public comments regarding community credit needs and opportunities as well as a bank's record of helping to meet community credit needs. The Board will take these comments into account in connection with the bank's next scheduled CRA examination.

(b) *Submission of public comments.* Members of the public may submit public comments regarding community credit needs and a bank's CRA performance by submitting comments to the Board at Staff Group: Community Reinvestment Act at <https://www.federalreserve.gov/apps/ContactUs/feedback.aspx>, by mail to Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street

and Constitution Avenue NW, Washington, DC 20551, or by facsimile at (202) 452-3819.

(c) *Timing of public comments.* If the Board receives a public comment before the close date of a bank's CRA examination, the public comment will be considered in connection with that CRA examination. If the Board receives a public comment after the close date of a bank's CRA examination, it will be considered in connection with the bank's subsequent CRA examination.

(d) *Distribution of public comments.* The Board will forward all public comments received regarding a bank's CRA performance to the bank.

Subpart E—Transition Rules

§ 228.51 Applicability dates and transition provisions.

(a) *Applicability dates—(1) In general.* Except as provided in paragraphs (a)(2), (b), and (d) of this section, this part is applicable, beginning on April 1, 2024.

(2) *Specific applicability dates.* The following sections are applicable as follows:

(i) On January 1, 2026, §§ 228.12 through 228.30, 228.42(a), 228.43, and 228.44; the data collection and maintenance requirements in § 228.42(c) through (f); and appendices A through F to this part become applicable.

(ii) On January 1, 2027, § 228.42(b) and (g) through (i) and the reporting requirements in § 228.42(c) through (f) become applicable.

(iii) *Rules during transition period.* Prior to the applicability dates in paragraphs (a)(2)(i) and (ii) of this section, banks must comply with the relevant provisions of this part in effect on March 31, 2024, as set forth in appendix G to this part. The relevant provisions set forth in appendix G to this part are applicable to CRA performance evaluations pursuant to 12 U.S.C. 2903(a)(1) that assess activities that a bank conducted prior to the dates set forth in paragraphs (a)(2)(i) and (ii) of this section, as applicable, except as provided in paragraphs (c) and (d) of this section.

(b) *HMDA data disclosures.* The Board will publish the data pursuant to § 228.42(j) beginning January 1, 2027.

(c) *Consideration of bank activities.* (1) In assessing a bank's CRA performance, the Board will consider any loan, investment, service, or product that was eligible for CRA consideration at the time the bank conducted the activity.

(2) Notwithstanding paragraph (c)(1) of this section, in assessing a bank's CRA performance, the Board will consider any loan or investment that was eligible for CRA consideration at the time that the bank entered into a legally binding commitment to make the loan or investment.

(d) *Strategic plans*—(1) *New and replaced strategic plans.* The CRA regulatory requirements in effect on March 31, 2024, as set forth in appendix G to this part, apply to any new strategic plan, including a plan that replaces an expired strategic plan, submitted to the Board for approval on or after April 1, 2024, but before November 1, 2025, and that the agency has determined is a complete plan consistent with the requirements under 12 CFR 228.27 in effect on March 31, 2024, as set forth in appendix G to this part. These strategic plans remain in effect until the expiration date of the plan. The Board will not accept any strategic plan submitted on or after November 1, 2025, and before January 1, 2026.

(2) *Existing strategic plans.* A strategic plan in effect as of April 1, 2024, remains in effect until the expiration date of the plan.

(e) *First evaluation under this part on or after February 1, 2024.* In its first performance evaluation under this part on or after February 1, 2024, a large bank that has a total of 10 or more facility-based assessment areas in any State or multistate MSA, or nationwide, as applicable, and that was a bank subject to evaluation under this part or 12 CFR part 25 or 345 prior to February 1, 2024, may not receive a rating of "Satisfactory" or "Outstanding" in that State or multistate MSA, or for the institution, unless the bank received an overall facility-based assessment area conclusion, calculated as described in paragraph g.2.ii of appendix D to this part, of at least "Low Satisfactory" in 60 percent or more of the total number of its facility-based assessment areas

in that State or multistate MSA, or nationwide, as applicable.

[Reg. BB, 89 FR 7188, Feb. 1, 2024, as amended at 89 FR 22068, Mar. 29, 2024]

APPENDIX A TO PART 228—CALCULATIONS FOR THE RETAIL LENDING TEST

This appendix, based on requirements described in §§ 228.22 and 228.28, includes the following sections:

- I. Retail Lending Volume Screen
- II. Retail Lending Test Distribution Metrics—Scope of Evaluation
- III. Geographic Distribution Metrics and Benchmarks
- IV. Borrower Distribution Metrics and Benchmarks
- V. Supporting Conclusions for Major Product Lines Other Than Automobile Lending
- VI. Supporting Conclusions for Automobile Lending
- VII. Retail Lending Test Conclusions—All Major Product Lines
- VIII. Retail Lending Test Weighting and Conclusions for States, Multistate MSAs, and the Institution

I. RETAIL LENDING VOLUME SCREEN

The Board calculates the Bank Volume Metric and the Market Volume Benchmark for a facility-based assessment area and determines whether the bank has met or surpassed the Retail Lending Volume Threshold in that facility-based assessment area.

a. *Bank Volume Metric.* The Board calculates the Bank Volume Metric for each facility-based assessment area by:

1. Summing, over the years in the evaluation period, the bank's annual dollar volume of loans included in the Bank Volume Metric (*i.e.*, *volume metric loans*). The bank's annual dollar volume of volume metric loans is the total dollar amount of all home mortgage loans, multifamily loans, small business loans, small farm loans, and automobile loans originated or purchased by the bank in the facility-based assessment area in that year. Automobile loans are included in the bank's annual dollar amount of volume metric loans only if automobile loans are a product line for the bank.

2. Summing, over the years in the evaluation period, the bank's annual dollar volume of deposits in the facility-based assessment area. For a bank that reports deposits data pursuant to §228.42(b)(3), the bank's annual dollar volume of deposits in a facility-based assessment area is the total of annual average daily balances of deposits reported by the bank in counties in the facility-based assessment area for that year. For a bank that

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does not report deposits data pursuant to §228.42(b)(3), the bank’s annual dollar volume of deposits in a facility-based assessment area is the total of deposits assigned to facilities reported by the bank in the facility-based assessment area in the FDIC’s Summary of Deposits for that year.

3. Dividing the result of paragraph I.a.1 of this appendix by the result of paragraph I.a.2 of this appendix.

Example A-1: The bank has a three-year evaluation period. The bank’s annual dollar amounts of *volume metric loans* are \$300,000 (year 1), \$300,000 (year 2), and \$400,000 (year 3). The sum of the bank’s annual dollar

amount of *volume metric loans* in a facility-based assessment area, over the years in the evaluation period, is therefore \$1 million. The annual dollar volumes of deposits in the bank located in the facility-based assessment area are \$1.7 million (year 1), \$1.6 million (year 2), and \$1.7 million (year 3). The sum of the annual dollar volume of deposits in the facility-based assessment area, over the years in the evaluation period, is therefore \$5 million. The Bank Volume Metric for the facility-based assessment area would be \$1 million divided by \$5 million, or 0.2 (equivalently, 20 percent).

$$\frac{\text{Bank Volume Metric Loans (\$1 million)}}{\text{Bank Deposits (\$5 million)}} = \text{Bank Volume Metric (20\%)}$$

b. *Market Volume Benchmark.* The Board calculates the Market Volume Benchmark for the facility-based assessment area. For purposes of calculating the Market Volume Benchmark, a *benchmark depository institution* for a particular year is a depository institution that, in that year, was subject to reporting pursuant to §228.42(b)(1), 12 CFR 25.42(b)(1) or 345.42(b)(1), or 12 CFR part 1003, and operated a facility included in the FDIC’s Summary of Deposits data in the facility-based assessment area. The Board calculates the Market Volume Benchmark by:

1. Summing, over the years in the evaluation period, the annual dollar volume of volume benchmark loans. The annual dollar volume of volume benchmark loans is the total dollar volume of all home mortgage loans, multifamily loans, small business loans, and small farm loans in the facility-based assessment area in that year that are reported loans originated by benchmark depository institutions.

2. Summing, over the years in the evaluation period, the annual dollar volume of deposits for benchmark depository institutions in the facility-based assessment area. The annual dollar volume of deposits for benchmark depository institutions in the facility-based assessment area is the sum across benchmark depository institutions of: (i) for a benchmark depository institution that reports data pursuant to §228.42(b)(3) or 12 CFR

25.42(b)(3) or 345.42(b)(3), the total of annual average daily balances of deposits reported by that depository institution in counties in the facility-based assessment area for that year; and (ii) for a benchmark depository institution that does not report data pursuant to §228.42(b)(3) or 12 CFR 25.42(b)(3) or 345.42(b)(3), the total of deposits assigned to facilities reported by that depository institution in counties in the facility-based assessment area in the FDIC’s Summary of Deposits for that year.

3. Dividing the result of paragraph I.b.1 of this appendix by the result of paragraph I.b.2 of this appendix.

Example A-2: With reference to example A-1 to this appendix, the annual dollar volume of volume benchmark loans is \$6 million (year 1), \$7 million (year 2), and \$7 million (year 3). The sum of the annual dollar volume of volume benchmark loans, over the years in the evaluation period, is therefore \$20 million. The annual dollar volume of deposits for benchmark depository institutions is \$17 million (year 1), \$15 million (year 2), and \$18 million (year 3). The sum of the annual dollar volume of deposits for benchmark depository institutions, over the years in the evaluation period, is therefore \$50 million. The Market Volume Benchmark for that facility-based assessment area would be \$20 million divided by \$50 million, or 0.4 (equivalently, 40 percent).

$$\frac{\text{Volume Benchmark Loans (\$20 million)}}{\text{Aggregate Market Deposits (\$50 million)}} = \text{Market Volume Benchmark (40\%)}$$

c. *Retail Lending Volume Threshold.* For each facility-based assessment area, the

Board calculates a Retail Lending Volume

Threshold by multiplying the Market Volume Benchmark for that facility-based assessment area by 0.3 (equivalently, 30 percent). A bank meets or surpasses the Retail Lending Volume Threshold in a facility-based assessment area if the Bank Volume Metric is equal to or greater than the Retail Lending Volume Threshold.

Example A-3: Based on examples A-1 and A-2 to this appendix, the Board calculates the Retail Lending Volume Threshold by multiplying the Market Volume Benchmark of 40 percent by 0.3, equal to 0.12 (equivalently, 12 percent). The Bank Volume Metric, 0.2 (equivalently, 20 percent), is greater than the Retail Lending Volume Threshold. Accordingly, the bank surpasses the Retail Lending Volume Threshold.

Bank Volume Metric (20%) > Retail Lending Volume Threshold [(40%) × 0.3 = 12%]

II. RETAIL LENDING DISTRIBUTION METRICS— SCOPE OF EVALUATION

a. *Retail Lending Test Areas evaluated.* A bank's major product lines are evaluated in its Retail Lending Test Areas, as provided in § 228.22(d) and as described in paragraphs II.a.1 and 2 of this appendix.

1. *Large banks exempt from evaluation in retail lending assessment areas.* Pursuant to § 228.17(a)(2), a large bank is not required to delineate retail lending assessment areas in a particular calendar year if the following ratio exceeds 80 percent, based on the combination of loan dollars and loan count as defined in § 228.12:

i. The sum, over the prior two calendar years, of the large bank's home mortgage loans, multifamily loans, small business loans, small farm loans, and automobile loans if automobile loans are a product line for the large bank, originated or purchased in its facility-based assessment areas; divided by

ii. The sum, over the prior two calendar years, of the large bank's home mortgage loans, multifamily loans, small business loans, small farm loans, and automobile loans if automobile loans are a product line for the large bank, originated or purchased overall.

Example A-4: A large bank (for which automobile loans are not a product line) originated or purchased 20,000 closed-end home mortgage loans, small business loans, and small farm loans in the prior two calendar years, representing \$6 billion in loan dollars. Of these loans, 18,000 loans, representing \$4.5 billion in loan dollars, were originated or purchased in the large bank's facility-based assessment areas. As such, the large bank originated or purchased 75 percent of closed-end home mortgage loans, small business loans, and small farm loans (\$4.5 billion/\$6 billion) by loan dollars and 90 percent (18,000/20,000) of these loans by loan count within its

facility-based assessment areas. The combination of loan dollars and loan count is 82.5 percent, or $(75 + 90)/2$. Thus, this large bank is not required to delineate retail lending assessment areas pursuant to § 228.17(a)(2) in the current calendar year because the 82.5 percent exceeds the 80 percent threshold.

2. *Small banks and intermediate banks evaluated in outside retail lending areas.* Pursuant to § 228.18(a)(2), the Board evaluates the geographic and borrower distributions of the major product lines of an intermediate bank, or a small bank that opts to be evaluated under the Retail Lending Test, in the bank's outside retail lending area if either:

i. The bank opts to have its major product lines evaluated in its outside retail lending area; or

ii. The following ratio exceeds 50 percent, based on the combination of loan dollars and loan count as defined in § 228.12:

A. The sum, over the prior two calendar years, of the bank's home mortgage loans, multifamily loans, small business loans, small farm loans, and automobile loans if automobile loans are a product line for the bank, originated or purchased outside of its facility-based assessment areas; divided by

B. The sum, over the prior two calendar years, of the bank's home mortgage loans, multifamily loans, small business loans, small farm loans, and automobile loans if automobile loans are a product line for the bank, originated or purchased overall.

b. *Product lines and major product lines.* In each of a bank's Retail Lending Test Areas, the Board evaluates each of a bank's major product lines, as provided in § 228.22(d)(2) and as described in paragraphs II.b.1 through 3 of this appendix.

1. *Major product line standard for facility-based assessment areas and outside retail lending areas.* Except as provided in paragraph II.b.1.iii of this appendix, a product line is a major product line in a facility-based assessment area or outside retail lending area if the following ratio is 15 percent or more, based on the combination of loan dollars and loan count as defined in § 228.12:

i. The sum, over the years of the evaluation period, of the bank's loans in the product line originated or purchased in the facility-based assessment area or outside retail lending area; divided by

ii. The sum, over the years of the evaluation period, of the bank's loans in all product lines originated or purchased in the facility-based assessment area or outside retail lending area.

iii. If a bank has not collected, maintained, or reported loan data on a product line in a facility-based assessment area or outside retail lending area for one or more years of an evaluation period, the product line is a major product line if the Board determines that the product line is material to the

bank's business in the facility-based assessment area or outside retail lending area.

2. *Major product line standard for retail lending assessment areas.* In a retail lending assessment area:

(i) Closed-end home mortgage loans are a major product line in any calendar year in the evaluation period in which the bank delineates a retail lending assessment area based on its closed-end home mortgage loans as determined by the standard in §228.17(c)(1); and

(ii) Small business loans are a major product line in any calendar year in the evaluation period in which the bank delineates a retail lending assessment area based on its small business loans as determined by the standard in §228.17(c)(2).

3. *Banks for which automobile loans are a product line.*

i. If a bank's automobile loans are a product line (either because the bank is a majority automobile lender or opts to have its automobile loans evaluated pursuant to §228.22), automobile loans are a product line for the bank for the entire evaluation period.

ii. A bank is a majority automobile lender if the following ratio, calculated at the institution level, exceeds 50 percent, based on the combination of loan dollars and loan count as defined in §228.12:

A. The sum, over the two calendar years preceding the first year of the evaluation period, of the bank's automobile loans originated or purchased overall; divided by

B. The sum, over the two calendar years preceding the first year of the evaluation period, of the bank's automobile loans, home mortgage loans, multifamily loans, small business loans, and small farm loans originated or purchased overall.

III. GEOGRAPHIC DISTRIBUTION METRICS AND BENCHMARKS

The Board calculates the Geographic Bank Metric, the Geographic Market Benchmark, and the Geographic Community Benchmark for low-income census tracts and for moderate-income census tracts, respectively, as set forth in this section. For each facility-based assessment area, retail lending assessment area, and component geographic area of the bank's outside retail lending area, the Board includes either low-income census tracts or moderate-income census tracts (*i.e.*,

designated census tracts) in the numerator of the metrics and benchmarks calculations for a particular year. To evaluate small banks and intermediate banks without data collection, maintenance and reporting requirements, the Board will use data collected by the bank in the ordinary course of business or through sampling of bank loan data.

a. *Calculation of Geographic Bank Metric.* The Board calculates the Geographic Bank Metric for low-income census tracts and for moderate-income census tracts, respectively, for each major product line in each Retail Lending Test Area. The Board calculates the Geographic Bank Metric by:

1. Summing, over the years in the evaluation period, the bank's annual number of originated and purchased loans in the major product line in designated census tracts in the Retail Lending Test Area.

2. Summing, over the years in the evaluation period, the bank's annual number of originated and purchased loans in the major product line in the Retail Lending Test Area.

3. Dividing the result of paragraph III.a.1 of this appendix by the result of paragraph III.a.2 of this appendix.

Example A-5: The bank has a three-year evaluation period, and small farm loans are a major product line for the bank in a facility-based assessment area (FBAA-1). The bank's annual numbers of originated and purchased small farm loans (*i.e.*, the bank's originated and purchased small farm loans) are 100 (year 1), 75 (year 2), and 75 (year 3) in FBAA-1. The sum of the annual numbers of originated and purchased small farm loans is therefore 250 in the evaluation period. In the low-income census tracts within FBAA-1, the bank originated and purchased 25 small farm loans (year 1), 15 small farm loans (year 2), and 10 small farm loans (year 3) (a total of 50 small farm loans). In FBAA-1, the Geographic Bank Metric for small farm loans in low-income census tracts would be 50 divided by 250, or 0.2 (equivalently, 20 percent).

In the moderate-income census tracts within FBAA-1, the bank originated and purchased 30 small farm loans (year 1), 20 small farm loans (year 2), and 10 small farm loans (year 3) (a total of 60 small farm loans). In FBAA-1, the Geographic Bank Metric for small farm loans in moderate-income census tracts would be 60 divided by 250, or 0.24 (equivalently, 24 percent).

$$\frac{\text{Bank Loans in Low – Income Census Tracts (50)}}{\text{Bank Loans (250)}} = \text{Geographic Bank Metric (20\%)}$$

$$\frac{\text{Bank Loans in Moderate – Income Census Tracts (60)}}{\text{Bank Loans (250)}} = \text{Geographic Bank Metric (24\%)}$$

b. *Calculation of Geographic Market Benchmarks for facility-based assessment areas and retail lending assessment areas.* For each facility-based assessment area and retail lending assessment area, the Board calculates the Geographic Market Benchmark for designated census tracts for each major product line, excluding automobile loans. The Board calculates the Geographic Market Benchmark by:

1. Summing, over the years in the evaluation period, the annual number of reported loans in the major product line in designated census tracts in the facility-based assessment area or retail lending assessment area originated by all lenders.

2. Summing, over the years in the evaluation period, the annual number of reported loans in the major product line in the facility-based assessment area or retail lending assessment area originated by all lenders.

3. Dividing the result of paragraph III.b.1 of this appendix by the result of paragraph III.b.2 of this appendix.

Example A-6: The Geographic Market Benchmarks for small farm loans in FBAA-1 use a three-year evaluation period. Lenders that report small farm loan data originated

500 small farm loans (year 1), 250 small farm loans (year 2), and 250 small farm loans (year 3) within FBAA-1. The sum of the annual numbers of originated small farm loans is therefore 1,000 in the evaluation period. Lenders that report small farm loan data originated 200 small farm loans (year 1), 100 small farm loans (year 2) and 100 small farm loans (year 3) in low-income census tracts within FBAA-1. The sum of the annual numbers of originated small farm loans in low-income census tracts within FBAA-1 is therefore 400. The Geographic Market Benchmark for small farm loans in low-income census tracts within FBAA-1 would be 400 divided by 1,000, or 0.4 (equivalently, 40 percent).

Lenders that report small farm loan data originated 100 small farm loans (year 1), 100 small farm loans (year 2), and 100 small farm loans (year 3) in moderate-income census tracts within FBAA-1. The sum of the annual numbers of originated small farm loans in moderate-income census tracts within FBAA-1 is therefore 300. The Geographic Market Benchmark for small farm loans in moderate-income census tracts within FBAA-1 would be 300 divided by 1,000, or 0.3 (equivalently, 30 percent).

$$\frac{\text{Aggregate Market Loans in Low – Income Census Tracts (400)}}{\text{Aggregate Market Loans (1,000)}} = \text{Geographic Market Benchmark (40\%)}$$

$$\frac{\text{Aggregate Market Loans in Moderate – Income Census Tracts (300)}}{\text{Aggregate Market Loans (1,000)}} = \text{Geographic Market Benchmark (30\%)}$$

c. *Calculation of Geographic Community Benchmarks for facility-based assessment areas and retail lending assessment areas.* The Board calculates the Geographic Community

Benchmark for designated census tracts for each major product line in each facility-based assessment area or retail lending assessment area.

1. For closed-end home mortgage loans, the Board calculates a Geographic Community Benchmark for low-income census tracts by:

i. Summing, over the years in the evaluation period, the annual number of owner-occupied housing units in low-income census tracts in the facility-based assessment area or retail lending assessment area.

ii. Summing, over the years in the evaluation period, the annual number of owner-occupied housing units in the facility-based assessment area or retail lending assessment area.

iii. Dividing the result of paragraph III.c.1.i of this appendix by the result of paragraph III.c.1.ii of this appendix.

2. For closed-end home mortgage loans, the Board calculates a Geographic Community Benchmark for moderate-income census tracts by:

i. Summing, over the years in the evaluation period, the annual number of owner-occupied housing units in moderate-income census tracts in the facility-based assessment area or retail lending assessment area.

ii. Summing, over the years in the evaluation period, the annual number of owner-occupied housing units in the facility-based assessment area or retail lending assessment area.

iii. Dividing the result of paragraph III.c.2.i of this appendix by the result of paragraph III.c.2.ii of this appendix.

3. For small business loans, the Board calculates a Geographic Community Benchmark for low-income census tracts by:

i. Summing, over the years in the evaluation period, the annual number of non-farm businesses in low-income census tracts in the facility-based assessment area or retail lending assessment area.

ii. Summing, over the years in the evaluation period, the annual number of non-farm businesses in the facility-based assessment area or retail lending assessment area.

iii. Dividing the result of paragraph III.c.3.i of this appendix by the result of paragraph III.c.3.ii of this appendix.

4. For small business loans, the Board calculates a Geographic Community Benchmark for moderate-income census tracts by:

i. Summing, over the years in the evaluation period, the annual number of non-farm businesses in moderate-income census tracts in the facility-based assessment area or retail lending assessment area.

ii. Summing, over the years in the evaluation period, the annual number of non-farm businesses in the facility-based assessment area or retail lending assessment area.

iii. Dividing the result of paragraph III.c.4.i of this appendix by the result of paragraph III.c.4.ii of this appendix.

5. For small farm loans, the Board calculates a Geographic Community Benchmark for low-income census tracts by:

i. Summing, over the years in the evaluation period, the annual number of farms in low-income census tracts in the facility-based assessment area.

ii. Summing, over the years in the evaluation period, the annual number of farms in the facility-based assessment area.

iii. Dividing the result of paragraph III.c.5.i of this appendix by the result of paragraph III.c.5.ii of this appendix.

6. For small farm loans, the Board calculates a Geographic Community Benchmark for moderate-income census tracts by:

i. Summing, over the years in the evaluation period, the annual number of farms in moderate-income census tracts in the facility-based assessment area.

ii. Summing, over the years in the evaluation period, the annual number of farms in the facility-based assessment area.

iii. Dividing the result of paragraph III.c.6.i of this appendix by the result of paragraph III.c.6.ii of this appendix.

7. For automobile loans, the Board calculates a Geographic Community Benchmark for low-income census tracts by:

i. Summing, over the years in the evaluation period, the annual number of households in low-income census tracts in the facility-based assessment area.

ii. Summing, over the years in the evaluation period, the annual number of households in the facility-based assessment area.

iii. Dividing the result of paragraph III.c.7.i of this appendix by the result of paragraph III.c.7.ii of this appendix.

8. For automobile loans, the Board calculates a Geographic Community Benchmark for moderate-income census tracts by:

i. Summing, over the years in the evaluation period, the annual number of households in moderate-income census tracts in the facility-based assessment area.

ii. Summing, over the years in the evaluation period, the annual number of households in the facility-based assessment area.

iii. Dividing the result of paragraph III.c.8.i of this appendix by the result of paragraph III.c.8.ii of this appendix.

Example A-7: The Geographic Community Benchmarks for small business loans in FBAA-1 use a three-year evaluation period. There were 1,300 non-farm businesses (year 1), 1,300 non-farm businesses (year 2), and 1,400 non-farm businesses (year 3) in FBAA-1. The sum of the number of non-farm businesses in FBAA-1 is therefore 4,000 in the evaluation period. In low-income census tracts within FBAA-1, there were 200 non-farm businesses (year 1), 150 non-farm businesses (year 2), and 150 non-farm businesses (year 3) (a total of 500 non-farm businesses). The Geographic Community Benchmark for small business loans in low-income census tracts within FBAA-1 would be 500 divided by 4,000, or 0.125 (equivalently, 12.5 percent).

In moderate-income census tracts within FBAA-1, there were 400 non-farm businesses (year 1), 300 non-farm businesses (year 2), and 300 non-farm businesses (year 3) (a total of 1,000 non-farm businesses). The Geographic

Community Benchmark for small business loans in moderate-income census tracts within FBAA-1 would be 1,000 divided by 4,000, or 0.25 (equivalently, 25 percent).

$$\frac{\text{Non – Farm Businesses in Low – Income Census Tracts (500)}}{\text{Businesses (4,000)}}$$

= Geographic Community Benchmark (12.5%)

$$\frac{\text{Non – Farm Businesses in Moderate – Income Census Tracts (1,000)}}{\text{Businesses (4,000)}}$$

= Geographic Community Benchmark (25%)

d. *Calculation of Geographic Market Benchmarks for the outside retail lending area.* For a bank's outside retail lending area, the Board calculates the Geographic Market Benchmark for each major product line, excluding automobile loans, and for each category of designated census tracts by taking a weighted average of benchmarks for each component geographic area as follows:

1. Calculating a benchmark for each category of designated census tracts and each major product line within each component geographic area as described in §228.18(b) using the formula for the Geographic Market Benchmark described in paragraph III.b of this appendix with the component geographic area in place of the facility-based assessment area or retail lending assessment area, as applicable.

2. Calculating the weighting for each component geographic area and major product line as the percentage of the bank's loans in the major product line originated or purchased in the outside retail lending area that are within the component geographic area, based on loan count.

3. Calculating the weighted average benchmark for the outside retail lending area using the component geographic area benchmarks in paragraph III.d.1 of this appendix and associated weightings in paragraph III.d.2 of this appendix.

e. *Calculation of Geographic Community Benchmarks for the outside retail lending area.* For a bank's outside retail lending area, the Board calculates the Geographic Community Benchmark for each category of designated census tract and for each major product line by taking a weighted average of benchmarks for each component geographic area as follows:

1. Calculating a benchmark for each category of designated census tracts and each major product line within each component geographic area as described in §228.18(b) using the formula for the Geographic Community Benchmark described in paragraph III.c of this appendix with the component geographic area in place of the facility-based

assessment area or retail lending assessment area, as applicable.

2. Calculating the weighting for each component geographic area and major product line as the percentage of the bank's loans in the major product line originated or purchased in the outside retail lending area that are within the component geographic area, based on loan count.

3. Calculating the weighted average benchmark for the outside retail lending area using the component geographic area benchmarks in paragraph III.e.1 of this appendix and associated weightings in paragraph III.e.2 of this appendix.

IV. BORROWER DISTRIBUTION METRICS AND BENCHMARKS

The Board calculates the Borrower Bank Metric, the Borrower Market Benchmark, and the Borrower Community Benchmark for each category of borrowers (*i.e.*, *designated borrowers*), as set forth in this section.

For closed-end home mortgage loans, the Board calculates these metrics and benchmarks for each of the following designated borrowers: (i) low-income borrowers; and (ii) moderate-income borrowers.

For small business loans, the Board calculates these metrics and benchmarks for each of the following designated borrowers: (i) businesses with gross annual revenues of \$250,000 or less; and (ii) businesses with gross annual revenues greater than \$250,000 but less than or equal to \$1 million.

For small farm loans, the Board calculates these metrics and benchmarks for each of the following designated borrowers: (i) farms with gross annual revenues of \$250,000 or less; and (ii) farms with gross annual revenues greater than \$250,000 but less than or equal to \$1 million.

For automobile loans, the Board calculates these metrics and benchmarks for each of the following designated borrowers: (i) low-income borrowers; and (ii) moderate income borrowers.

To evaluate small banks and intermediate banks without data collection, maintenance and reporting requirements, the Board will use data collected by the bank in the ordinary course of business or through sampling of bank loan data.

a. *Calculation of Borrower Bank Metric.* The Board calculates the Borrower Bank Metric for each major product line and category of designated borrowers in each Retail Lending Test Area by:

1. Summing, over the years in the evaluation period, the bank's annual number of originated and purchased loans in the major product line to designated borrowers in the Retail Lending Test Area.

2. Summing, over the years in the evaluation period, the bank's annual number of originated and purchased loans in the major product line in the Retail Lending Test Area.

3. Dividing the result of paragraph IV.a.1 of this appendix by the result of paragraph IV.a.2 of this appendix.

Example A-8: The bank has a three-year evaluation period, and closed-end home mortgage loans are a major product line for the bank in FBAA-1. The bank's annual numbers of originated and purchased closed-end home mortgage loans (*i.e.*, the bank's originated and purchased closed-end home

mortgage loans) are 30 (year 1), 40 (year 2), and 30 (year 3) in FBAA-1. The sum of the annual numbers of originated and purchased closed-end home mortgage loans is therefore 100 in the evaluation period. In FBAA-1, the bank originated and purchased 10 closed-end home mortgage loans to low-income borrowers (year 1), 3 closed-end home mortgage loans to low-income borrowers (year 2), and 7 closed-end home mortgage loans to low-income borrowers (year 3) (a total of 20 closed-end home mortgage loans to low-income borrowers). In FBAA-1, the Borrower Bank Metric for closed-end home mortgage loans to low-income borrowers would be 20 divided by 100, or 0.2 (equivalently, 20 percent).

In FBAA-1, the bank also originated and purchased 12 closed-end home mortgage loans to moderate-income borrowers (year 1), 5 closed-end home mortgage loans to moderate-income borrowers (year 2), and 13 closed-end home mortgage loans to moderate-income borrowers (year 3) (a total of 30 closed-end home mortgage loans to moderate-income borrowers). In FBAA-1, the Borrower Bank Metric for closed-end home mortgage loans to moderate-income borrowers would be 30 divided by 100, or 0.3 (equivalently, 30 percent).

$$\frac{\text{Bank Loans to Low - Income Borrowers (20)}}{\text{Bank Loans (100)}} = \text{Borrower Bank Metric (20\%)}$$

$$\frac{\text{Bank Loans to Moderate - Income Borrowers (30)}}{\text{Bank Loans (100)}} = \text{Borrower Bank Metric (30\%)}$$

b. *Calculation of Borrower Market Benchmarks for facility-based assessment areas and retail lending assessment areas.* For each facility-based assessment area and retail lending assessment area, the Board calculates the Borrower Market Metric for each major product line, excluding automobile loans, and for each category of designated borrowers by:

1. Summing, over the years in the evaluation period, the annual number of reported loans in the major product line to designated borrowers in the facility-based assessment area or retail lending assessment area originated by all lenders.

2. Summing, over the years in the evaluation period, the annual number of reported loans in the major product line in the facility-based assessment area or retail lending assessment area originated by all lenders.

3. Dividing the result of paragraph IV.b.1 of this appendix by the result of paragraph IV.b.2 of this appendix.

Example A-9: The Borrower Market Benchmarks for closed-end home mortgage loans use a three-year evaluation period. Lenders that report closed-end home mortgage loans originated 500 closed-end home mortgage loans (year 1), 275 closed-end home mortgage loans (year 2), and 225 closed-end home mortgage loans (year 3). The sum of the annual numbers of originated closed-end home mortgage loans is therefore 1,000 in the evaluation period. Lenders that report closed-end home mortgage loans originated 50 closed-end home mortgage loans to low-income borrowers (year 1), 20 closed-end home mortgage loans to low-income borrowers (year 2), and 30 closed-end home mortgage loans to low-income borrowers (year 3) in FBAA-1. The sum of the annual numbers of originated closed-end home mortgage loans to low-income borrowers within FBAA-1 is therefore 100. The Borrower Market Benchmark for closed-end home mortgage loans to low-income borrowers would be 100 divided by 1,000, or 0.1 (equivalently, 10 percent).

Lenders that report closed-end home mortgage loans originated 100 loans (year 1), 75 loans (year 2), and 25 loans (year 3) to moderate-income borrowers. The sum of the annual numbers of originated closed-end home mortgage loans to moderate-income bor-

rowers within FBAA–1 is therefore 200. The Borrower Market Benchmark for closed-end home mortgage loans to moderate-income borrowers in FBAA–1 would be 200 divided by 1,000, or 0.2 (equivalently, 20 percent).

Aggregate Market Loans to Low – Income Borrowers (100)

Aggregate Market Loans (1,000)

= Borrower Market Benchmark (10%)

Aggregate Loans to Moderate – Income Borrowers (200)

Aggregate Market Loans (1,000)

= Borrower Market Benchmark (20%)

c. *Calculation of Borrower Community Benchmarks for facility-based assessment areas and retail lending assessment areas.* The Board calculates the Borrower Community Benchmark for each category of designated borrowers for each major product line in each facility-based assessment area or retail lending assessment area.

1. For closed-end home mortgage loans, the Board calculates a Borrower Community Benchmark for low-income borrowers by:

i. Summing, over the years in the evaluation period, the annual number of low-income families in the facility-based assessment area or retail lending assessment area.

ii. Summing, over the years in the evaluation period, the annual number of families in the facility-based assessment area or retail lending assessment area.

iii. Dividing the result of paragraph IV.c.1.i of this appendix by the result of paragraph IV.c.1.ii of this appendix.

2. For closed-end home mortgage loans, the Board calculates a Borrower Community Benchmark for moderate-income borrowers by:

i. Summing, over the years in the evaluation period, the annual number of moderate-income families in the facility-based assessment area or retail lending assessment area.

ii. Summing, over the years in the evaluation period, the annual number of families in the facility-based assessment area or retail lending assessment area.

iii. Dividing the result of paragraph IV.c.2.i of this appendix by the result of paragraph IV.c.2.ii of this appendix.

3. For small business loans, the Board calculates a Borrower Community Benchmark

for non-farm businesses with gross annual revenues of \$250,000 or less by:

i. Summing, over the years in the evaluation period, the annual number of non-farm businesses with gross annual revenues of \$250,000 or less in the facility-based assessment area or retail lending assessment area.

ii. Summing, over the years in the evaluation period, the annual number of non-farm businesses in the facility-based assessment area or retail lending assessment area.

iii. Dividing the result of paragraph IV.c.3.i of this appendix by the result of paragraph IV.c.3.ii of this appendix.

4. For small business loans, the Board calculates a Borrower Community Benchmark for non-farm businesses with gross annual revenues greater than \$250,000 but less than or equal to \$1 million by:

i. Summing, over the years in the evaluation period, the annual number of non-farm businesses with gross annual revenues greater than \$250,000 but less than or equal to \$1 million in the facility-based assessment area or retail lending assessment area.

ii. Summing, over the years in the evaluation period, the annual number of non-farm businesses in the facility-based assessment area or retail lending assessment area.

iii. Dividing the result of paragraph IV.c.4.i of this appendix by the result of paragraph IV.c.1.ii of this appendix.

5. For small farm loans, the Board calculates a Borrower Community Benchmark for farms with gross annual revenues of \$250,000 or less by:

i. Summing, over the years in the evaluation period, the annual number of farms with

gross annual revenues of \$250,000 or less in the facility-based assessment area.

ii. Summing, over the years in the evaluation period, the annual number of farms in the facility-based assessment area.

iii. Dividing the result of paragraph IV.c.5.i of this appendix by the result of paragraph IV.c.5.ii of this appendix.

6. For small farm loans, the Board calculates a Borrower Community Benchmark for farms with gross annual revenues greater than \$250,000 but less than or equal to \$1 million:

i. Summing, over the years in the evaluation period, the annual number of farms with gross annual revenues greater than \$250,000 but less than or equal to \$1 million in the facility-based assessment area.

ii. Summing, over the years in the evaluation period, the annual number of farms in the facility-based assessment area.

iii. Dividing the result of paragraph IV.c.6.i of this appendix by the result of paragraph IV.c.6.ii of this appendix.

7. For automobile loans, the Board calculates a Borrower Community Benchmark for low-income borrowers by:

i. Summing, over the years in the evaluation period, the annual number of low-income households in the facility-based assessment area.

ii. Summing, over the years in the evaluation period, the annual number of households in the facility-based assessment area.

iii. Dividing the result of paragraph IV.c.7.i of this appendix by the result of paragraph IV.c.7.ii of this appendix.

8. For automobile loans, the Board calculates a Borrower Community Benchmark for moderate-income borrowers by:

i. Summing, over the years in the evaluation period, the annual number of moderate-income households in the facility-based assessment area.

ii. Summing, over the years in the evaluation period, the annual number of households in the facility-based assessment area.

iii. Dividing the result of paragraph IV.c.8.i of this appendix by the result of paragraph IV.c.8.ii of this appendix.

Example A-10: The Borrower Community Benchmarks for closed-end home mortgage loans use a three-year evaluation period. There were 1,300 families (year 1), 1,300 families (year 2), and 1,400 families (year 3) in FBAA-1. The sum of the number of families in FBAA-1 is therefore 4,000 in the evaluation period. There were 300 low-income families (year 1), 300 low-income families (year 2), and 400 low-income families (year 3) (a total of 1,000 low-income families). The Borrower Community Benchmark for closed-end home mortgage loans to low-income families within the FBAA-1 would be 1,000 divided by 4,000, or 0.25 (equivalently, 25 percent).

There were 350 moderate-income families (year 1), 400 moderate-income families (year 2), and 450 moderate-income families (year 3) (a total of 1,200 moderate-income families). The Borrower Community Benchmark for closed-end home mortgage loans to moderate-income families in FBAA-1 would be 1,200 divided by 4,000, or 0.3 (equivalently, 30 percent).

$$\frac{\text{Low - Income Families (1,000)}}{\text{Families (4,000)}} = \text{Borrower Community Benchmark (25\%)}$$

$$\frac{\text{Moderate - Income Families (1,200)}}{\text{Families (4,000)}} = \text{Borrower Community Benchmark (30\%)}$$

d. *Calculation of Borrower Market Benchmark for the outside retail lending area.* For a bank's outside retail lending area, the Board calculates the Borrower Market Benchmark for each major product line, excluding automobile loans, and for each category of designated borrowers by taking a weighted average of benchmarks for each component geographic area as follows:

1. Calculating a benchmark for each category of designated borrowers and each major product line within each component geographic area as described in §228.18(b) using the formula for the Borrower Market Benchmark described in section IV.b of this appendix with the component geographic

area in place of the facility-based assessment area or retail lending assessment area, as applicable.

2. Calculating the weighting for each component geographic area and major product line as the percentage of the bank's loans in the major product line originated or purchased in the outside retail lending area that are within the component geographic area, based on loan count.

3. Calculating the weighted average benchmark for the outside retail lending area using the component geographic area benchmarks in paragraph IV.d.1 of this appendix and associated weightings in paragraph IV.d.2 of this appendix.

e. *Calculation of Borrower Community Benchmarks for the outside retail lending area.* For a bank’s outside retail lending area, the Board calculates the Borrower Community Benchmark for each major product line and for each category of designated borrowers in the bank’s outside retail lending area by taking a weighted average of benchmarks for each component geographic area as follows:

1. Calculating the benchmark for each category of designated borrowers and each major product line within each component geographic area as described in §228.18(b) using the formula for the Borrower Community Benchmark described in paragraph IV.c of this appendix with the component geographic area in place of the facility-based assessment area or retail lending assessment area, as applicable.
2. Calculating the weighting for each component geographic area and major product line as the percentage of the bank’s loans in the major product line originated or purchased in the outside retail lending area that are within the component geographic area, based on loan count.

3. Calculating the weighted average benchmark for the outside retail lending area using the component geographic area benchmarks in paragraph IV.e.1 of this appendix and associated weightings calculated in paragraph IV.e.2 of this appendix.

V. SUPPORTING CONCLUSIONS FOR MAJOR PRODUCT LINES OTHER THAN AUTOMOBILE LENDING

The Board evaluates a bank’s Retail Lending Test performance in each Retail Lending Test Area by comparing the bank’s distribution metrics to sets of performance ranges determined by, as applicable, the market and community benchmarks, as described in this section.

a. *Supporting conclusions for categories of designated census tracts and designated borrowers.* For each major product line, excluding automobile lending, the Board develops separate supporting conclusions for each of the categories outlined in table 1 to this appendix.

TABLE 1 TO APPENDIX A—RETAIL LENDING TEST CATEGORIES OF DESIGNATED CENSUS TRACTS AND DESIGNATED BORROWERS

Major product line	Designated census tracts	Designated borrowers
Closed-End Home Mortgage Loans.	Low-Income Census Tracts	Low-Income Borrowers.
	Moderate-Income Census Tracts	Moderate-Income Borrowers.
Small Business Loans	Low-Income Census Tracts	Non-farm businesses with Gross Annual Revenues of \$250,000 or Less.
	Moderate-Income Census Tracts	Non-farm businesses with Gross Annual Revenues Greater than \$250,000 but Less Than or Equal to \$1 million.
Small Farm Loans	Low-Income Census Tracts	Farms with Gross Annual Revenues of \$250,000 or Less.
	Moderate-Income Census Tracts	Farms with Gross Annual Revenues Greater than \$250,000 but Less Than or Equal to \$1 million.

b. *Geographic distribution performance ranges.* To evaluate a bank’s geographic distributions for each major product line, excluding automobile lending, the Board compares the relevant Geographic Bank Metric for each category of designated census tracts to the applicable set of performance ranges. The performance ranges are determined by the values of the Geographic Market Benchmark and the Geographic Community Benchmark, as well as the multipliers associated with each supporting conclusion category, as follows:

1. The performance threshold for an “Outstanding” supporting conclusion is the lesser of either:
 - i. The product of 1.0 times the Geographic Community Benchmark; or
 - ii. The product of 1.15 times the Geographic Market Benchmark.

The “Outstanding” performance range is all potential values of the Geographic Bank Metric equal to or above the “Outstanding” performance threshold.

2. The performance threshold for a “High Satisfactory” Retail Lending Test supporting conclusion is the lesser of either:

- i. The product of 0.8 times the Geographic Community Benchmark; or
- ii. The product of 1.05 times the Geographic Market Benchmark.

The “High Satisfactory” performance range is all potential values of the Geographic Bank Metric equal to or above the “High Satisfactory” performance threshold but below the Outstanding performance threshold.

3. The performance threshold for a “Low Satisfactory” supporting conclusion is the lesser of either:

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- i. The product of 0.6 times the Geographic Community Benchmark; or
- ii. The product of the 0.8 times the Geographic Market Benchmark.

The “Low Satisfactory” performance range is all potential values of the Geographic Bank Metric equal to or above the “Low Satisfactory” performance threshold but below the High Satisfactory performance threshold.

4. The performance threshold for a “Needs to Improve” supporting conclusion is the lesser of either:

- i. The product of 0.3 times the Geographic Community Benchmark; or
- ii. The product of 0.33 times the Geographic Market Benchmark.

The “Needs to Improve” performance range is all potential values of the Geographic Bank Metric equal to or above the “Needs to Improve” performance threshold but below the “Low Satisfactory” performance threshold.

5. The “Substantial Noncompliance” performance range is all potential values of the Geographic Bank Metric below the “Needs to Improve” performance threshold.

c. *Geographic distribution supporting conclusions and performance scores.* The Board compares each Geographic Bank Metric to the performance ranges provided in paragraphs V.b.1 through V.b.5 of this appendix. The geographic distribution supporting conclusion for each category of designated census tracts is determined by the performance range within which the Geographic Bank Metric falls. Each supporting conclusion is assigned a numerical performance score using the following corresponding points values:

Conclusion	Performance score
Outstanding	10
High Satisfactory	7
Low Satisfactory	6
Needs to Improve	3
Substantial Noncompliance	0

d. *Borrower distribution performance ranges.* To evaluate a bank’s borrower distributions for each major product line, excluding automobile lending, the Board compares the relevant Borrower Bank Metric for each category of designated borrowers to the applicable set of performance ranges. The performance ranges are determined by the values of the Borrower Market Benchmark and Borrower Community Benchmark, as well as the multipliers associated with each supporting conclusion category, as follows:

1. The performance threshold for an “Outstanding” supporting conclusion is the lesser of either:

- i. The product of 1.0 times the Borrower Community Benchmark; or
- ii. The product of 1.15 times the Borrower Market Benchmark.

The “Outstanding” performance range is all potential values of the Borrower Bank Metric equal to or above the “Outstanding” performance threshold.

2. The performance threshold for a “High Satisfactory” supporting conclusion is the lesser of either:

- i. The product of 0.8 times the Borrower Community Benchmark; or
- ii. The product of 1.05 times the Borrower Market Benchmark.

The “High Satisfactory” performance range is all potential values of the Borrower Bank Metric equal to or above the “High Satisfactory” performance threshold but below the Outstanding performance threshold.

3. The performance threshold for a “Low Satisfactory” supporting conclusion is the lesser of either:

- i. The product of 0.6 times the Borrower Community Benchmark; or
- ii. The product of 0.8 times the Borrower Market Benchmark.

The “Low Satisfactory” performance range is all potential values of the Borrower Bank Metric equal to or above the “Low Satisfactory” performance threshold but below the High Satisfactory performance threshold.

4. The performance threshold for a “Needs to Improve” supporting conclusion is the lesser of either:

- i. The product of 0.3 times the Borrower Community Benchmark; or
- ii. The product of 0.33 times the Borrower Market Benchmark.

The “Needs to Improve” performance range is all potential values of the Borrower Bank Metric equal to or above the “Needs to Improve” performance threshold but below the “Low Satisfactory” performance threshold.

5. The “Substantial Noncompliance” performance range is all potential values of the Borrower Bank Metric below the “Needs to Improve” performance threshold.

e. *Borrower distribution supporting conclusions and performance scores.* The Board compares each Borrower Bank Metric to the performance ranges provided in paragraphs V.d.1 through V.d.5 of this appendix. The borrower distribution supporting conclusion for each category of designated borrowers is determined by the performance range within which the Borrower Bank Metric falls. Each supporting conclusion is assigned a numerical performance score using the following corresponding point values:

Conclusion	Performance score
Outstanding	10
High Satisfactory	7
Low Satisfactory	6
Needs to Improve	3
Substantial Noncompliance	0

VI. SUPPORTING CONCLUSIONS FOR AUTOMOBILE LENDING

a. *Supporting conclusions for categories of designated census tracts and designated borrowers.* For any bank for which automobile lending is evaluated under § 228.22, the Board develops separate supporting conclusions for each of the categories outlined in table 2 to this appendix.

TABLE 2 TO APPENDIX A—AUTOMOBILE LOANS: CATEGORIES OF DESIGNATED CENSUS TRACTS AND DESIGNATED BORROWERS

Major product line	Designated census tracts	Designated borrowers
Automobile Lending.	Low-Income Census Tracts. Moderate-Income Census Tracts.	Low-Income Borrowers. Moderate-Income Borrowers.

b. *Geographic distribution.* The Board develops the supporting conclusion for a bank’s geographic distribution for automobile lending based on a comparison of the Geographic Bank Metric for automobile lending in each category of designated census tracts to the corresponding Geographic Community Benchmark.

c. *Borrower distribution.* The Board develops the supporting conclusion for a bank’s borrower distribution for automobile lending based on a comparison of the Borrower Bank Metric for automobile lending in each category of designated borrowers to the corresponding Borrower Community Benchmark.

d. *Performance scores.* Each supporting conclusion is assigned a numerical performance score using the following corresponding point values:

Conclusion	Performance score
Outstanding	10
High Satisfactory	7
Low Satisfactory	6
Needs to Improve	3
Substantial Noncompliance	0

VII. RETAIL LENDING TEST CONCLUSIONS—ALL MAJOR PRODUCT LINES

a. The Board determines a bank’s Retail Lending Test performance conclusion for a major product line in a Retail Lending Test Area by calculating a weighted performance score for each major product line:

1. The Board develops a weighted average performance score for each major product line in each Retail Lending Test Area as follows:

i. The Board creates a weighted average performance score across the categories of designated census tracts (*i.e., geographic distribution average*) and a weighted average performance score across the categories of designated borrowers (*i.e., borrower distribution average*).

ii. For the geographic distribution average of each major product line, the weighting assigned to each category of designated census tracts is based on the demographics of the Retail Testing Area as outlined in the following table:

TABLE 3 TO APPENDIX A—RETAIL LENDING, TEST GEOGRAPHIC DISTRIBUTION AVERAGE—WEIGHTS

Major product line	Category of designated census tracts	Weight
Closed-End Home Mortgage Loans.	Low-Income Census Tracts	Percentage of total number of owner-occupied housing units in low- and moderate-income census tracts in the applicable Retail Lending Test Area that are in low-income census tracts.
	Moderate-Income Census Tracts.	Percentage of total number of owner-occupied housing units in low- and moderate-income census tracts in the applicable Retail Lending Test Area that are in moderate-income census tracts.
Small Business Loans	Low-Income Census Tracts	Percentage of total number of non-farm businesses in low- and moderate-income census tracts in the applicable Retail Lending Test Area that are in low-income census tracts.
	Moderate-Income Census Tracts.	Percentage of total number of non-farm businesses in low- and moderate-income census tracts in the applicable Retail Lending Test Area that are in moderate-income census tracts.
Small Farm Loans	Low-Income Census Tracts	Percentage of total number of farms in low- and moderate-income census tracts in the applicable Retail Lending Test Area that are in low-income census tracts.
	Moderate-Income Census Tracts.	Percentage of total number of farms in low- and moderate-income census tracts in the applicable Retail Lending Test Area that are in moderate-income census tracts.
Automobile Loans	Low-Income Census Tracts	Percentage of total number of households in low- and moderate-income census tracts in the applicable Retail Lending Test Area that are in low-income census tracts.

TABLE 3 TO APPENDIX A—RETAIL LENDING, TEST GEOGRAPHIC DISTRIBUTION AVERAGE—WEIGHTS—Continued

Major product line	Category of designated census tracts	Weight
	Moderate-Income Census Tracts.	Percentage of total number of households in low- and moderate-income census tracts in the applicable Retail Lending Test Area that are in moderate-income census tracts.

In the case of a Retail Lending Test Area that contains no low-income census tracts and no moderate-income census tracts, the bank will not receive a geographic distribution average for that assessment area.

Example A-11: A large bank’s closed-end home mortgage loans constitute a major product line for the bank in a facility-based assessment area. The bank’s geographic distribution supporting conclusions for closed-end home mortgage loans in this facility-based assessment area are “High Satisfactory” (performance score of 7 points) for low-income census tracts and “Needs to Improve” (performance score of 3 points) for moderate-income census tracts. Owner-occupied housing units in moderate-income census tracts represents 20 percent of all owner-occupied housing units in the facility-based assessment area, and owner-occupied housing units in low-income census tracts represents 5 percent of all owner-occupied housing units in the facility-based assessment area. Accordingly, the weight assigned to the moderate-income geographic distribution performance score is 80 percent [20 percent / (20 percent + 5 percent) = 80 percent] and the weight assigned to the low-income geographic distribution performance score is 20 percent [5 percent / (20 percent + 5 percent) = 20 percent]. The bank’s geographic distribution average for closed-end home mortgage loans in this facility-based assessment area is 3.8 [(7 points × 0.2 weight = 1.4) + (3 points × 0.8 weight = 2.4)].

iii. For the borrower distribution average of each major product line, the weighting assigned to each category of designated borrowers is based on the demographics of the Retail Lending Test Area as outlined in the following table:

TABLE 4 TO APPENDIX A—RETAIL LENDING TEST, BORROWER DISTRIBUTION AVERAGE—WEIGHTS

Major product line	Categories of designated borrowers	Weight
Closed-End Home Mortgage Loans.	Low-Income Borrowers.	Percentage of total number of low-income and moderate-income families in the applicable Retail Lending Test Area that are low-income families.
	Moderate-Income Borrowers.	Percentage of total number of low-income and moderate-income families in the applicable Retail Lending Test Area that are moderate-income families.
Small Business Loans.	Non-farm businesses with gross annual revenues of \$250,000 or less.	Percentage of total number of non-farm businesses with gross annual revenues of \$250,000 or less and non-farm businesses with gross annual revenues greater than \$250,000 but less than or equal to \$1 million in the applicable Retail Lending Test Area that are non-farm businesses with gross annual revenues of \$250,000 or less.

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TABLE 4 TO APPENDIX A—RETAIL LENDING TEST, BORROWER DISTRIBUTION AVERAGE—WEIGHTS—Continued

Major product line	Categories of designated borrowers	Weight
Small Farm Loans	Non-farm businesses with gross annual revenues greater than \$250,000 and less than or equal to \$1 million.	Percentage of total number of non-farm businesses with gross annual revenues of \$250,000 or less and non-farm businesses with gross annual revenues greater than \$250,000 but less than or equal to \$1 million in the applicable Retail Lending Test Area that are non-farm businesses with gross annual revenues greater than \$250,000 but less than or equal to \$1 million.
	Farms with gross annual revenues of \$250,000 or less.	Percentage of total number of farms with gross annual revenues of \$250,000 or less and farms with gross annual revenues greater than \$250,000 but less than or equal to \$1 million in the applicable Retail Lending Test Area that are farms with gross annual revenues of \$250,000 or less.

TABLE 4 TO APPENDIX A—RETAIL LENDING TEST, BORROWER DISTRIBUTION AVERAGE—WEIGHTS—Continued

Major product line	Categories of designated borrowers	Weight
Automobile Loans	Farms with gross annual revenues greater than \$250,000 and less than or equal to \$1 million.	Percentage of total number of farms with gross annual revenues of \$250,000 or less and farms with gross annual revenues greater than \$250,000 but less than or equal to \$1 million in the applicable Retail Lending Test Area that are farms with gross annual revenues greater than \$250,000 but less than or equal to \$1 million.
	Low-Income Borrowers.	Percentage of total number of low-income and moderate-income households in the applicable Retail Lending Test Area that are low-income households.
	Moderate-Income Borrowers.	Percentage of total number of low-income and moderate-income households in the applicable Retail Lending Test Area that are moderate-income households.

Example A-12: Building on example A-11 to this appendix, the bank's borrower distribution supporting conclusions for closed-end home mortgage loans in this facility-based assessment area are "Outstanding" (performance score of 10 points) for low-income borrowers and "Low Satisfactory" (performance score of 6 points) for moderate-income borrowers. Low-income families represent 14 percent of all families in the facility-based assessment area and moderate-income families represent 6 percent of all families in the facility-based assessment area. Accordingly, the weight assigned to the low-income borrower distribution performance score is 70 percent [14 percent/(14 percent + 6 percent) = 70 percent] and the weight assigned to the

moderate-income borrower distribution performance score is 30 percent [6 percent/(14 percent + 6 percent) = 30 percent]. The bank's borrower distribution average for closed-end home mortgage loans in this facility-based assessment area is 8.8 [(10 points × 0.7 weight = 7.0) + (6 points × 0.3 weight = 1.8)].

2. For each major product line, the Board calculates the average of the geographic distribution average and the borrower distribution average (i.e., *product line score*). If a bank has no geographic distribution average for a product (due to the absence of both low-income census tracts and moderate-income census tracts in the geographic area), the product line score is the borrower distribution average.

Example A-13: Based on examples A-11 and A-12 to this appendix, the bank's product line score for closed-end home mortgage loans is 6.3 [(3.8 geographic distribution average × 0.5 weight = 1.9) + (8.8 borrower distribution average × 0.5 weight = 4.4)].

b. For each Retail Lending Test Area, the Board calculates a weighted average of product line scores across all major product lines (i.e., *Retail Lending Test Area Score*). For each Retail Lending Test Area, the Board uses a ratio of the bank's loan originations and purchases in each major product line to its loan originations and purchases in all major product lines during the evaluation period, based on the combination of loan dollars and loan count as defined in §228.12, as weights in the weighted average.

Example A-14: In addition to the product line score of 6.3 for closed-end home mortgage loans in example A-13 to this appendix, the bank has a product line score of 4.2 for small business lending in the same facility-based assessment area. Among major product lines, 60 percent of the bank's loans in the facility-based assessment area are closed-end home mortgages and 40 percent are small business loans based upon the combination of loan dollars and loan count. Accordingly, the weight assigned to the closed-end home mortgage product line score is 60 percent and the weight assigned to the small business product line score is 40 percent. The bank's Retail Lending Test Area Score for this facility-based assessment area is 5.46 [(6.3 closed-end home mortgage loan product line score × 0.6 weight = 3.78) + (4.2 small business loan product line score × 0.4 weight = 1.68)].

c. The Board then develops a Retail Lending Test recommended conclusion corresponding with the conclusion category that is nearest to the Retail Lending Test Area Score, as follows:

Recommended conclusion	Retail lending test area score
Outstanding	8.5 or more.
High Satisfactory	6.5 or more but less than 8.5.
Low Satisfactory	4.5 or more but less than 6.5.

Recommended conclusion	Retail lending test area score
Needs to Improve	1.5 or more but less than 4.5.
Substantial Noncompliance ...	less than 1.5.

Example A-15: Based on example A-14 to this appendix, the bank's Retail Lending Test Area Score is associated with a "Low Satisfactory" conclusion, so the bank's Retail Lending Test recommended conclusion for this facility-based assessment area is "Low Satisfactory."

d. Once a recommended conclusion is determined for a Retail Lending Test Area, the performance context information provided in §228.21(d) and the additional factors provided in §228.22(g) inform the Board's determination of the Retail Lending Test conclusion for the Retail Lending Test Area. The agency assigns a Retail Lending Test conclusion for the Retail Lending Test Area of "Outstanding," "High Satisfactory," "Low Satisfactory," "Needs to Improve," or "Substantial Noncompliance."

VIII. RETAIL LENDING TEST WEIGHTING AND CONCLUSIONS FOR STATES, MULTISTATE MSAs, AND THE INSTITUTION

The Board develops the Retail Lending Test conclusions for States, multistate MSAs, and the institution as described in this section.

a. The Board translates Retail Lending Test conclusions for facility-based assessment areas, retail lending assessment areas, and as applicable, the outside retail lending area into numerical performance scores, as follows:

Conclusion	Performance score
Outstanding	10
High Satisfactory	7
Low Satisfactory	6
Needs to Improve	3
Substantial Noncompliance	0

b. The Board calculates the weighted average of Retail Lending Test Area performance scores for a State or multistate MSA, as applicable, and for the institution (i.e., *performance score for the Retail Lending Test*). For the weighted average for a State or multistate MSA, the Board considers facility-based assessment areas and retail lending assessment areas in the State or multistate MSA pursuant to §228.28(c). For the weighted average for the institution, the Board considers all of the bank's facility-based assessment areas and retail lending assessment areas and, as applicable, the bank's outside retail lending area. Each Retail Lending Test Area performance score is weighted by the average of the following two ratios:

1. The ratio measuring the share of the bank’s deposits in the Retail Lending Test Area, calculated by:

- i. Summing, over the years in the evaluation period, the bank’s annual dollar volume of deposits in the Retail Lending Test Area.
- ii. Summing, over the years in the evaluation period, the bank’s annual dollar volume of deposits in all Retail Lending Test Areas in the State, in the multistate MSA, or for the institution, as applicable.
- iii. Dividing the result of paragraph VIII.b.1.i of this appendix by the result of paragraph VIII.b.1.ii of this appendix.

For a bank that reports deposits data pursuant to §228.42(b)(3), the bank’s annual dollar volume of deposits in a Retail Lending Test Area is the total of annual average daily balances of deposits reported by the bank in counties in the Retail Lending Test Area for that year. For a bank that does not report deposits data pursuant to §228.42(b)(3), the bank’s annual dollar volume of deposits in a Retail Lending Test Area is the total of deposits assigned to facilities reported by the bank in the Retail Lending Test Area in the FDIC’s Summary of Deposits for that year.

2. The ratio measuring the share of the bank’s loans in the Retail Lending Test Area, based on the combination of loan dollars and loan count, as defined in §228.12, calculated by dividing:

- i. The bank’s closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank, automobile loans in the Retail Lending Test Area originated or purchased during the evaluation period; by
- ii. The bank’s closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank, automobile loans in all Retail Lending Test Areas in the State, in the multistate MSA, or for the institution, as applicable, originated or purchased during the evaluation period.

c. The Board develops a conclusion corresponding to the conclusion category that is nearest to the performance score for the Retail Lending Test for the State, the multistate MSA, or the institution, as applicable, as follows:

Conclusion	Retail lending test performance score
Outstanding	8.5 or more.
High Satisfactory	6.5 or more but less than 8.5.
Low Satisfactory	4.5 or more but less than 6.5.
Needs to Improve	1.5 or more but less than 4.5.
Substantial Noncompliance ...	Less than 1.5.

d. The agency considers relevant performance context information provided in §228.21(d) to inform the Board’s determination of the bank’s Retail Lending Test con-

clusion for the State, the multistate MSA, or the institution, as applicable.

Example A-16: A large bank operates in one State only, and has two facility-based assessment areas and one retail lending assessment area in that state and also engages in closed-end home mortgage lending, small business lending, and small farm lending (but not automobile lending, as it is not a product line for the bank) in its outside retail lending area.

Additionally:

- i. Facility-based assessment area 1 (FBAA-1) is associated with 75 percent of the deposits in all of the Retail Lending Test Areas of the bank (based on dollar amount) and 10 percent of the bank’s closed-end home mortgage loans, small business loans, and small farm loans (based on the combination of loan dollars and loan count as defined in §228.12). The bank received a “Needs to Improve” (3 points) Retail Lending Test conclusion in FBAA-1;
- ii. Facility-based assessment area 2 (FBAA-2) is associated with 15 percent of the deposits in all of the Retail Lending Test Areas of the bank and 20 percent of the bank’s closed-end home mortgage loans, small business loans, and small farm loans (based on the combination of loan dollars and loan count as defined in §228.12). The bank received a “Low Satisfactory” (6 points) Retail Lending Test conclusion in FBAA-2;
- iii. The Retail lending assessment area is associated with 8 percent of the deposits in all of the Retail Lending Test Areas of the bank and 68 percent of the bank’s closed-end home mortgage loans, small business loans, and small farm loans (based on the combination of loan dollars and loan count as defined in §228.12). The bank received an “Outstanding” (10 points) Retail Lending Test conclusion in the retail lending assessment area; and
- iv. The bank’s outside retail lending area, is associated with 2 percent of the deposits in all of the Retail Lending Test Areas of the bank and 2 percent of the bank’s closed-end home mortgage loans, small business loans, and small farm loans (based on the combination of loan dollars and loan count as defined in §228.12). The bank received a “High Satisfactory” (7 points) Retail Lending Test conclusion in the outside retail lending area.

Calculating weights:

- i. For facility-based assessment area 1: weight = 42.5 percent [(75 percent of deposits + 10 percent of closed-end home mortgage loans, small business loans, and small farm loans)/2];
- ii. For facility-based assessment area 2: weight = 17.5 percent [(15 percent of deposits + 20 percent of closed-end home mortgage loans, small business loans, and small farm loans)/2];

iii. For the retail lending assessment area: weight = 38 percent [(8 percent of deposits + 68 percent of closed-end home mortgage loans, small business loans, and small farm loans)/2]; and

iv. For the outside retail lending area: weight = 2 percent [(2 percent of deposits + 2 percent of closed-end home mortgage loans, small business loans, and small farm loans)/2].

Institution Retail Lending Test Performance Score and Conclusion: Using the relevant points values—“Outstanding” (10 points); “High Satisfactory” (7 points); “Low Satisfactory” (6 points); “Needs to Improve” (3 points); “Substantial Noncompliance” (0 points)—and based on the illustration in this example A-16, the bank’s Retail Lending Test performance score for the institution is 6.3 [(0.425 weight × 3 points in facility-based assessment area 1) + (0.175 weight × 6 points in facility-based assessment area 2) + (0.38 weight × 10 points in retail lending assessment area) + (0.02 weight × 7 points in the outside retail lending area)].

A performance score of 6.3 corresponds with the conclusion category “Low Satisfactory,” so the bank’s Retail Lending Test recommended conclusion at the institution level is “Low Satisfactory.” Relevant performance context information provided in §228.21(d) may inform the Board’s determination of the bank’s conclusion at the institution level.

Example A-17: An intermediate bank operates in a single State, has two facility-based assessment areas, and also engages in closed-end home mortgage lending, small business lending, and small farm lending (but not automobile lending, as automobile lending is not a product line for the bank) in its outside retail lending area.

Additionally:

i. Facility-based assessment area 1 (FBAA-1) is associated with 60 percent of the deposits in all of the Retail Lending Test Areas of the bank and 30 percent of the bank’s closed-end home mortgage loans, small business loans, and small farm loans. The bank received an “Outstanding” (10 points) Retail Lending Test conclusion in FBAA-1;

ii. Facility-based assessment area 2 (FBAA-2) is associated with 40 percent of the deposits in all of the Retail Lending Test Areas of the bank and 10 percent of the bank’s closed-end home mortgage loans, small business loans, and small farm loans. The bank received a “High Satisfactory” (7 points) Retail Lending Test conclusion in FBAA-2; and

iii. The bank’s outside retail lending area is associated with 0 percent of the deposits in all of the Retail Lending Test Areas of the bank (the bank did not voluntarily collect and maintain depositor location data, so all deposits in the bank are attributed to its branches within facility-based assessment

areas) and 60 percent of the bank’s closed-end home mortgage loans, small business loans, and small farm loans. The bank received a “Needs to Improve” (3 points) Retail Lending Test conclusion in the outside retail lending area.

Calculating weights:

i. For FBAA-1: weight = 45 percent [(60 percent of deposits + 30 percent of closed-end home mortgage loans, small business loans, and small farm loans)/2];

ii. For FBAA-2: weight = 25 percent [(40 percent of deposits + 10 percent of closed-end home mortgage loans, small business loans, and small farm loans)/2]; and

iii. For the outside retail lending area: weight = 30 percent [(0 percent of deposits + 60 percent of closed-end home mortgage loans, small business loans, and small farm loans)/2].

Institution Retail Lending Test Performance

Score and Conclusion: Using the relevant points values—“Outstanding” (10 points); “High Satisfactory” (7 points); “Low Satisfactory” (6 points); “Needs to Improve” (3 points); “Substantial Noncompliance” (0 points)—and based on the illustration in this example A-17, the bank’s recommended Retail Lending Test performance score at the institution level is 7.2 [(0.45 weight × 10 points in FBAA-1) + (0.25 weight × 7 points in FBAA-2) + (0.3 weight × 3 points in the outside retail lending area)].

A performance score of 7.2 corresponds with the conclusion category “High Satisfactory,” so the bank’s Retail Lending Test recommended conclusion at the institution level is “High Satisfactory.” Relevant performance context information provided in §228.21(d) may inform the Board’s determination of the bank’s conclusion at the institution level.

EFFECTIVE DATE NOTE: At 89 FR 7190, Feb. 1, 2024, appendix A to part 228 was amended by:

a. Adding a sentence at the end of paragraph I.a.1;

b. Removing “subject to reporting pursuant to §228.42(b)(1), 12 CFR 25.42(b)(1) or 345.42(b)(1),” in paragraph I.b introductory text and adding in its place “subject to reporting pursuant to subpart B of 12 CFR part 1002”;

c. Adding a sentence at the end of paragraph III.a.1;

d. Revising paragraphs III.c.3.i and ii, III.c.4.i and ii, III.c.5.i and ii, and III.c.6.i and ii;

e. In paragraph III.c.8.iii, revising *Example A-7*;

f. Revising the third and fourth introductory paragraphs to section IV;

g. Adding a sentence at the end of paragraph IV.a.1;

h. Revising the introductory paragraph to IV.c.3 and paragraphs IV.c.3.i and ii;

- i. Revising the introductory paragraph to IV.c.4 and paragraphs IV.c.4.i and ii;
- j. Revising the introductory paragraph to IV.c.5 and paragraphs IV.c.5.i and ii;
- k. Revising the introductory paragraph to IV.c.6 and paragraphs IV.c.6.i and ii;
- l. In section V, in paragraph a, in table 1, revising the entries for “Small Business Loans” and “Small Farm Loans”; and
- m. In section VII:
 - i. In paragraph a.1.ii, in table 3, revising the entries for “Small Business Loans” and “Small Farm Loans”; and
 - ii. In paragraph a.1.iii, in table 4, revising the entries for “Small Business Loans” and “Small Farm Loans”.

The effective date of the amendments is delayed indefinitely. For the convenience of the user, the added and revised text is set forth as follows:

APPENDIX A TO PART 228—CALCULATIONS FOR THE RETAIL LENDING TEST

* * * * *

I. * * *

a. * * *

1. * * * A bank’s loan purchases that otherwise meet the definition of a covered credit transaction to a small business, as those terms are defined in 12 CFR 1002.104 and 1002.106(b), may be included in the numerator of the Bank Volume Metric at the bank’s option.

* * * * *

III. * * *

a. * * *

1. * * * A bank’s loan purchases that otherwise meet the definition of a covered credit transaction to a small business, as provided in 12 CFR 1002.104 and 1002.106(b), may be included in the numerator of the Geographic Bank Metric at the bank’s option.

* * * * *

c. * * *

3. * * *

- i. Summing, over the years in the evaluation period, the numbers of small businesses in low-income census tracts in the facility-based assessment area or retail lending assessment area.
- ii. Summing, over the years in the evaluation period, the numbers of small businesses in the facility-based assessment area or retail lending assessment area.

* * * * *

4. * * *

- i. Summing, over the years in the evaluation period, the numbers of small businesses

in moderate-income census tracts in the facility-based assessment area or retail lending assessment area.

- ii. Summing, over the years in the evaluation period, the numbers of small businesses in the facility-based assessment area or retail lending assessment area.

5. * * *

- i. Summing, over the years in the evaluation period, the numbers of small farms in low-income census tracts in the facility-based assessment area or retail lending assessment area.

- ii. Summing, over the years in the evaluation period, the numbers of small farms in the facility-based assessment area or retail lending assessment area.

* * * * *

6. * * *

- i. Summing, over the years in the evaluation period, the numbers of small farms in moderate-income census tracts in the facility-based assessment area or retail lending assessment area.

- ii. Summing, over the years in the evaluation period, the numbers of small farms in the facility-based assessment area or retail lending assessment area.

* * * * *

8. * * *

iii. * * *

Example A-7. The applicable benchmark uses a three-year evaluation period. There were 4,000 small business establishments, based upon the sum of the numbers of small business establishments over the years in the evaluation period (1,300 small business establishments in year 1, 1,300 small business establishments in year 2, and 1,400 small business establishments in year 3), in a bank’s facility-based assessment area. Of these small business establishments, 500 small business establishments were in low-income census tracts, based upon the sum of the numbers of small business establishments in low-income census tracts over the years in the evaluation period (200 small business establishments in year 1, 150 small business establishments in year 2, and 150 small business establishments in year 3). The Geographic Community Benchmark for small business loans in low-income census tracts would be 500 divided by 4,000, or 0.125 (equivalently, 12.5 percent). In addition, 1,000 small business establishments in that facility-based assessment area were in moderate-income census tracts, over the years in the evaluation period (400 small business establishments in year 1, 300 small business establishments in year 2, and 300 small business establishments in year 3). The Geographic Community

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Benchmark for small business loans in moderate-income census tracts would be 1,000 di-

vided by 4,000, or 0.25 (equivalently, 25 percent).

Small Businesses in Low – Income Census Tracts (500)

Small Businesses (4,000)

= *Geographic Community Benchmark (12.5%)*

Small Businesses in Moderate – Income Census Tracts (1,000)

Small Businesses (4,000)

= *Geographic Community Benchmark (25%)*

* * * * *

IV. * * *

For small business loans, the Board calculates these metrics and benchmarks for each of the following designated borrowers: (i) small businesses with gross annual revenues of \$250,000 or less; and (ii) small businesses with gross annual revenues of more than \$250,000 but less than or equal to \$1 million.

For small farm loans, the Board calculates these metrics and benchmarks for each of the following designated borrowers: (i) small farms with gross annual revenues of \$250,000 or less; and (ii) small farms with gross annual revenues of more than \$250,000 but less than or equal to \$1 million.

* * * * *

a. * * *

1. * * * A bank's loan purchases that otherwise meet the definition of a covered credit transaction to a small business, as provided in 12 CFR 1002.104 and 1002.106(b), may be included in the numerator of the Borrower Bank Metric at the bank's option.

* * * * *

c. * * *

3. For small business loans, the Board calculates a Borrower Community Benchmark for small businesses with gross annual revenues of \$250,000 or less by:

i. Summing, over the years in the evaluation period, the numbers of small businesses with gross annual revenues of \$250,000 or less in the facility-based lending area or retail lending assessment area.

ii. Summing, over the years in the evaluation period, the numbers of small businesses

in the facility-based lending area or retail lending assessment area.

* * * * *

4. For small business loans, the Board calculates a Borrower Community Benchmark for small businesses with gross annual revenues of more than \$250,000 but less than or equal to \$1 million by:

i. Summing, over the years in the evaluation period, the numbers of small businesses with gross annual revenues of more than \$250,000 but less than or equal to \$1 million in the facility-based lending area or retail lending assessment area.

ii. Summing, over the years in the evaluation period, the numbers of small businesses in the facility-based lending area or retail lending assessment area.

* * * * *

5. For small farm loans, the Board calculates a Borrower Community Benchmark for small farms with gross annual revenues of \$250,000 or less by:

i. Summing, over the years in the evaluation period, the numbers of small farms with gross annual revenues of \$250,000 or less in the facility-based lending area or retail lending assessment area.

ii. Summing, over the years in the evaluation period, the numbers of small farms in the facility-based lending area or retail lending assessment area.

* * * * *

6. For small farm loans, the Board calculates a Borrower Community Benchmark for small farms with gross annual revenues

of more than \$250,000 but less than or equal to \$1 million by:

i. Summing, over the years in the evaluation period, the numbers of small farms with gross annual revenues of more than \$250,000 but less than or equal to \$1 million in the facility-based lending area or retail lending assessment area.

ii. Summing, over the years in the evaluation period, the numbers of small farms in the facility-based lending area or retail lending assessment area.

* * * * *

V. * * *

a. * * *

TABLE 1 TO APPENDIX A—RETAIL LENDING TEST CATEGORIES OF DESIGNATED CENSUS TRACTS AND DESIGNATED BORROWERS

Major product line	Designated census tracts	Designated
Small Business Loans	Low-Income Census Tracts	Small businesses with Gross Annual Revenues of \$250,000 or Less.
	Moderate-Income Census Tracts.	Small businesses with Gross Annual Revenues Greater than \$250,000 but Less Than or Equal to \$1 million.
Small Farm Loans	Low-Income Census Tracts	Small farms with Gross Annual Revenues of \$250,000 or Less.
	Moderate-Income Census Tracts.	Small farms with Gross Annual Revenues Greater than \$250,000 but Less Than or Equal to \$1 million.

* * * * *

VII. * * *

a. * * *

1. * * *

ii. * * *

TABLE 3 TO APPENDIX A—RETAIL LENDING TEST, GEOGRAPHIC DISTRIBUTION AVERAGE—WEIGHTS

Major product line	Category of designated census tracts	Weight
Small Business Loans	Low-Income Census Tracts	Percentage of total number of small businesses in low- and moderate-income census tracts in the applicable Retail Lending Test Area that are in low-income census tracts.
	Moderate-Income Census Tracts.	Percentage of total number of small businesses in low- and moderate-income census tracts in the applicable Retail Lending Test Area that are in moderate-income census tracts.
Small Farm Loans	Low-Income Census Tracts	Percentage of total number of small farms in low- and moderate-income census tracts in the applicable Retail Lending Test Area that are in low-income census tracts.
	Moderate-Income Census Tracts.	Percentage of total number of small farms in low- and moderate-income census tracts in the applicable Retail Lending Test Area that are in moderate-income census tracts.

* * * * *

iii. * * *

TABLE 4 TO APPENDIX A—RETAIL LENDING TEST, BORROWER DISTRIBUTION AVERAGE—WEIGHTS

Major product line	Categories of designated borrowers	Weight
Small Business Loans	Small businesses with gross annual revenues of \$250,000 or less.	Percentage of total number of small businesses with gross annual revenues of \$250,000 or less and small businesses with gross annual revenues greater than \$250,000 but less than or equal to \$1 million in the applicable Retail Lending Test Area that are small businesses with gross annual revenues of \$250,000 or less.

TABLE 4 TO APPENDIX A—RETAIL LENDING TEST, BORROWER DISTRIBUTION AVERAGE—WEIGHTS—Continued

Major product line	Categories of designated borrowers	Weight
	Small businesses with gross annual revenues greater than \$250,000 and less than or equal to \$1 million.	Percentage of total number of small businesses with gross annual revenues of \$250,000 or less and small businesses with gross annual revenues greater than \$250,000 but less than or equal to \$1 million in the applicable Retail Lending Test Area that are small businesses with gross annual revenues greater than \$250,000 but less than or equal to \$1 million.
Small Farm Loans	Small farms with gross annual revenues of \$250,000 or less.	Percentage of total number of small farms with gross annual revenues of \$250,000 or less and small farms with gross annual revenues greater than \$250,000 but less than or equal to \$1 million in the applicable Retail Lending Test Area that are small farms with gross annual revenues of \$250,000 or less.
	Small farms with gross annual revenues greater than \$250,000 and less than or equal to \$1 million.	Percentage of total number of small farms with gross annual revenues of \$250,000 or less and small farms with gross annual revenues greater than \$250,000 but less than or equal to \$1 million in the applicable Retail Lending Test Area that are small farms with gross annual revenues greater than \$250,000 but less than or equal to \$1 million.
*	*	*

APPENDIX B TO PART 228—CALCULATIONS FOR THE COMMUNITY DEVELOPMENT TESTS

This appendix, based on requirements described in §§228.24 through 228.26 and 228.28, includes the following sections:

- I. Community Development Financing Tests—Calculation Components and Allocation of Community Development Loans and Community Development Investments
- II. Community Development Financing Test in §228.24—Calculations for Metrics, Benchmarks, and Combining Performance Scores
- III. Community Development Financing Test for Limited Purpose Banks in §228.26—Calculations for Metrics and Benchmarks
- IV. Weighting of Conclusions

I. COMMUNITY DEVELOPMENT FINANCING TESTS—CALCULATION COMPONENTS AND ALLOCATION OF COMMUNITY DEVELOPMENT LOANS AND COMMUNITY DEVELOPMENT INVESTMENTS

For purposes of the Community Development Financing Test in §228.24 and Community Development Financing Test for Limited Purpose Banks in §228.26, the Board identifies the community development loans and community development investments included in the numerator of the metrics and benchmarks and the deposits or assets included in the denominator of the metrics and benchmarks, as applicable, pursuant to paragraph I.a of this appendix. The Board deter-

mines whether to include a community development loan or community development investment in the numerator for a particular metric or benchmark pursuant to the allocation provisions in paragraph I.b of this appendix.

a. *Community development loans and community development investments, deposits, and assets included in the community development financing metrics and benchmarks—in general.* The Board calculates the community development financing metrics and benchmarks in §§228.24 and 228.26 using community development loans and community development investments and deposits or assets, as follows:

- 1. *Numerator—i. Community development loans and community development investments considered.* The Board includes community development loans and community development investments originated, purchased, refinanced, or renewed by a depository institution or attributed to a depository institution pursuant to §228.21(b) and (c) (e.g., an affiliate community development loan) in the numerator of the metrics and benchmarks. The Board calculates the annual dollar volume of community development loans and community development investments by summing the dollar volume of the following community development loans and community development investments for each calendar year in an evaluation period (i.e., *annual dollar volume of community development loans and community development investments*):

A. The dollar volume of all community development loans originated or purchased and community development investments made, including legally binding commitments to

extend credit or legally binding commitments to invest,¹ in that calendar year;

B. The dollar volume of any increase in the calendar year to an existing community development loan that is refinanced or renewed and in an existing community development investment that is renewed;

C. The outstanding dollar volume of community development loans originated or purchased in previous calendar years and community development investments made in previous calendar years, as of December 31 for each calendar year that the loan or investment remains on the depository institution's balance sheet; and

D. The outstanding dollar volume, less any increase reported in paragraph I.a.1.B of this appendix in the same calendar year, of a community development loan the depository institution refinanced or renewed in a calendar year subsequent to the calendar year of origination or purchase, as of December 31 for each calendar year that the loan remains on the depository institution's balance sheet, and an existing community development investment renewed in a calendar year subsequent to the calendar year of the investment, as of December 31 for each calendar year that the investment remains on the depository institution's balance sheet.

ii. *Community development loan and community development investment allocation.* To calculate the metrics and benchmarks provided in §§ 228.24 and __.26, the Board includes all community development loans and community development investments that are allocated to the specific facility-based assessment area, State, multistate MSA, or nationwide area, respectively, in the numerator for the metric and benchmarks applicable to that geographic area. See paragraph I.b of this appendix for the community development financing allocation provisions.

2. *Denominator.* i. *Annual dollar volume of deposits.* For purposes of metrics and benchmarks in § 228.24, the Board calculates an annual dollar volume of deposits in a depository institution that is specific to each metric or benchmark for each calendar year in the evaluation period (*i.e.*, *annual dollar volume of deposits*). For a depository institution that collects, maintains, and reports deposits data as provided in § 228.42 or 12 CFR 25.42 or 345.42, the annual dollar volume of deposits is determined using the annual average daily balance of deposits in the depository institution as provided in statements (*e.g.*, monthly or quarterly statements) based on

the deposit location. For a depository institution that does not collect, maintain, and report deposits data as provided in § 228.42 or 12 CFR 25.42 or 345.42, the annual dollar volume of deposits is determined using the deposits assigned to each facility pursuant to the FDIC's Summary of Deposits.

ii. *Annual dollar volume of assets.* For purposes of the metrics and benchmarks in § 228.26, the Board calculates an annual dollar volume of assets for each calendar year in the evaluation period (*i.e.*, *the annual dollar volume of assets*). The annual dollar volume of assets is calculated by averaging the assets for each quarter end in the calendar year.

b. *Allocation of community development loans and community development investments.* 1. *In general.* For the Community Development Financing Test in § 228.24 and the Community Development Financing Test for Limited Purpose Banks in § 228.26, the Board considers community development loans and community development investments in the evaluation of a bank's performance in a facility-based assessment area, State and multistate MSA, as applicable, and the nationwide area, based on the data provided by the bank pursuant to § 228.42(a)(5)(ii)(E) and the specific location, if available, pursuant to § 228.42(a)(5)(ii)(D). As appropriate, the Board may also consider publicly available information and information provided by government or community sources that demonstrates that a community development loan or community development investment benefits or serves a facility-based assessment area, State, or multistate MSA, or the nationwide area.

2. A bank may allocate a community development loan or community development investment as follows:

i. A community development loan or community development investment that benefits or serves only one county, and not any areas beyond that one county, would have the full dollar amount of the activity allocated to that county.

ii. A community development loan or community development investment that benefits or serves multiple counties, a State, a multistate MSA, multiple States, multiple multistate MSAs, or the nationwide area is allocated according to either specific documentation that the bank can provide regarding the dollar amount allocated to each county or based on the geographic scope of the activity, as follows:

A. *Allocation approach if specific documentation is available.* A bank may allocate a community development loan or community development investment or portion of a loan or investment based on documentation that specifies the appropriate dollar volume to assign to each county, such as specific addresses and dollar volumes associated with each address, or other information that indicates

¹The dollar volume of a legally binding commitment to extend credit or legally binding commitment to invest in any given year is: (1) the full dollar volume committed; or (2) if drawn upon, the combined dollar volume of the outstanding commitment and any drawn portion of the commitment.

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the specific dollar volume of the loan or investment that benefits or serves each county.

B. *Allocation approach based on geographic scope of a community development loan or community development investment.*² In the absence of specific documentation, the Board will allocate a community development loan or community development investment based on the geographic scope of the loan or investment as follows:

1. Allocate at the county level for a loan or investment with a geographic scope of one county;
2. Allocate at the county level based on the proportion of low- and moderate-income families in each county for a loan or investment with a geographic scope of less than an entire State or multistate MSA;
3. Allocate at the State or multistate MSA level for a loan or investment with a geographic scope of the entire State or multistate MSA, as applicable;
4. Allocate at the State or multistate MSA level, as applicable, based on the proportion of low- and moderate-income families in each State or multistate MSA for a loan or investment with a geographic scope of one or more State(s) or multistate MSA(s), but not the entire nation; and
5. Allocate at the nationwide area level for a loan or investment with a geographic scope of the entire Nation.

TABLE 1 TO APPENDIX B—COMMUNITY DEVELOPMENT LOAN OR COMMUNITY DEVELOPMENT INVESTMENT ALLOCATION

Community development loan or community development investment benefits or serves	Allocation approach if specific documentation is available	Allocation approach based on geographic scope of activity
One county	Allocate to county	NA.
Multiple counties that are part of one State or multistate MSA.	Allocate to counties.	Allocate to counties in proportions equivalent to the distribution of low- and moderate-income families.
One State or multistate MSA.	Allocate to counties.	Allocate to the State or multistate MSA.

²For the purposes of allocating community development loans and community development investments, the Board considers low- or moderate-income families to be located in a State or multistate MSA, as applicable, consistent with §228.28(c).

TABLE 1 TO APPENDIX B—COMMUNITY DEVELOPMENT LOAN OR COMMUNITY DEVELOPMENT INVESTMENT ALLOCATION—Continued

Community development loan or community development investment benefits or serves	Allocation approach if specific documentation is available	Allocation approach based on geographic scope of activity
Multiple States or multistate MSAs, less than the entire nation.	Allocate to counties.	Allocate to the States or multistate MSAs, as applicable, based on the proportion of low- and moderate-income families in each State or multistate MSA.
Nationwide area ...	Allocate to counties.	Allocate to nationwide area.

II. COMMUNITY DEVELOPMENT FINANCING TEST IN §228.24—CALCULATIONS FOR METRICS, BENCHMARKS, AND COMBINING PERFORMANCE SCORES

The calculations for metrics, benchmarks, and combination of performance scores for Community Development Financing Test in §228.24 are provided in this section. Additional information regarding relevant calculation components is set forth in paragraph I.a of this appendix.

a. *Bank Assessment Area Community Development Financing Metric.* The Board calculates the Bank Assessment Area Community Development Financing Metric in §228.24(b)(1) by:

1. Summing the bank's annual dollar volume of community development loans and community development investments that benefit or serve the facility-based assessment area for each year in the evaluation period.
2. Summing the bank's annual dollar volume of deposits located in the facility-based assessment area for each year in the evaluation period.
3. Dividing the result of paragraph II.a.1 of this appendix by the result of paragraph II.a.2 of this appendix.

Example B-1: The bank has a three-year evaluation period. The bank's annual dollar volumes of community development loans and community development investments that benefit or serve a facility-based assessment area are \$35,000 (year 1), \$25,000 (year 2), and \$40,000 (year 3). The sum of the bank's annual dollar volumes of community development loans and community development investments that benefit or serve a facility-based assessment area is therefore \$100,000. The bank's annual dollar volumes of deposits located in the facility-based assessment area are \$3.1 million (year 1), \$3.3 million (year 2), and \$3.6 million (year 3). The sum of the

bank's annual dollar volumes of deposits located in the facility-based assessment is therefore \$10 million. For the evaluation period, the Bank Assessment Area Community

Development Financing Metric would be \$100,000 divided by \$10 million, or 0.01 (equivalently, 1 percent).

Bank's community development loans and investments in the assessment area (\$100,000)

Deposits in the bank in the assessment area (\$10 million)

= *Bank Assessment Area Community Development Financing Metric (1%)*

b. *Assessment Area Community Development Financing Benchmark.* The Board calculates the Assessment Area Community Development Financing Benchmark in §228.24(b)(2)(i) for each facility-based assessment area by:

1. Summing all large depository institutions' annual dollar volume of community development loans and community development investments that benefit or serve the facility-based assessment area for each year in the evaluation period.

2. Summing all large depository institutions' annual dollar volume of deposits located in the facility-based assessment area for each year in the evaluation period.

3. Dividing the result of paragraph II.b.1 of this appendix by the result of paragraph II.b.2 of this appendix.

Example B-2: The applicable benchmark uses a three-year evaluation period. The annual dollar volumes of community development loans and community development investments that benefit or serve a facility-

based assessment area for all large depository institutions are \$3.25 million (year 1), \$3 million (year 2), and \$3.75 million (year 3). The sum of the annual dollar volumes of community development loans and community development investments that benefit or serve the facility-based assessment area conducted by all large depository institutions is therefore \$10 million. The annual dollar volumes of deposits located in the facility-based assessment area in all large depository institutions are \$330 million (year 1), \$330 million (year 2), and \$340 million (year 3). The sum of the annual dollar volumes of deposits located in the facility-based assessment area in all large depository institutions is therefore \$1 billion. For the evaluation period, the Assessment Area Community Development Financing Benchmark for the facility-based assessment area would be \$10 million divided by \$1 billion, or 0.01 (equivalently, 1 percent).

Community development loans and investments

in the assessment area by all large depository institutions (\$10 million)

Deposits in the assessment area in all large depository institutions (\$1 billion)

= *Assessment Area Community Development Financing Benchmark (1%)*

c. *MSA and Nonmetropolitan Nationwide Community Development Financing Benchmarks.* The Board calculates an MSA Nationwide Community Development Financing Benchmark to be used for each MSA in which the bank has a facility-based assessment area in the MSA. The Board calculates a Nonmetropolitan Nationwide Community Development Financing Benchmark to be used for each nonmetropolitan area in which the bank has a facility-based assessment area in the nonmetropolitan area.

1. *MSA Nationwide Community Development Financing Benchmark.* The Board calculates the MSA Nationwide Community Development Financing Benchmark in §228.24(b)(2)(ii)(A) by:

i. Summing all large depository institutions' annual dollar volume of community development loans and community development investments that benefit or serve metropolitan areas in the nationwide area for each year in the evaluation period.

ii. Summing all large depository institutions' annual dollar volume of deposits located in metropolitan areas in the nationwide area for each year in the evaluation period.

iii. Dividing the result of paragraph II.c.1.i of this appendix by the result of paragraph II.c.1.ii of this appendix.

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Example B-3: The applicable benchmark uses a three-year evaluation period. The annual dollar volumes of community development loans and community development investments that benefit or serve metropolitan areas in the nationwide area conducted by all large depository institutions are \$98 billion (year 1), \$100 billion (year 2), and \$102 billion (year 3). The sum of the annual dollar volumes of community development loans and community development investments that benefit or serve metropolitan areas in the nationwide area conducted by all large depository institutions is therefore \$300 bil-

lion. The annual dollar volumes of deposits located in metropolitan areas in the nationwide area in all large depository institutions are \$14.9 trillion (year 1), \$15 trillion (year 2), and \$15.1 trillion (year 3). The sum of the annual dollar volumes of deposits located in metropolitan areas in the nationwide area in all large depository institutions is therefore \$45 trillion. For the evaluation period, the Metropolitan Nationwide Community Development Financing Benchmark would be \$300 billion divided by \$45 trillion, or 0.007 (equivalently, 0.7 percent).

$$\begin{aligned} & \text{Community development loans and investments} \\ & \text{nationwide in metropolitan areas by all large depository institutions (\$300 billion)} \\ & \hline & \text{Deposits nationwide in metropolitan areas in all large depository institutions (\$45 trillion)} \\ & \hline & = \text{Metropolitan Nationwide Community Development Financing Benchmark (0.7\%)} \end{aligned}$$

2. *Nonmetropolitan Nationwide Community Development Financing Benchmark.* The Board calculates the Nonmetropolitan Nationwide Community Development Financing Benchmark in §228.24(b)(2)(ii)(B) by:

i. Summing all large depository institutions' annual dollar volume of community development loans and community development investments that benefit or serve nonmetropolitan areas in the nationwide area for each year in the evaluation period.

ii. Summing all large depository institutions' annual dollar volume of deposits located in nonmetropolitan areas in the nationwide area for each year in the evaluation period.

iii. Dividing the result of paragraph II.c.2.i of this appendix by the result of paragraph II.c.2.ii of this appendix.

Example B-4: The applicable benchmark uses a three-year evaluation period. The annual dollar volumes of community development loans and community development in-

vestments that benefit or serve nonmetropolitan areas in the nationwide area conducted by all large depository institutions are \$3 billion (year 1), \$3.2 billion (year 2), and \$3.8 billion (year 3). The sum of the annual dollar volumes of community development loans and community development investments that benefit or serve nonmetropolitan areas in the nationwide area conducted by all large depository institutions is therefore \$10 billion. The annual dollar volumes of deposits located in nonmetropolitan areas in all large depository institutions are \$330 billion (year 1), \$334 billion (year 2), and \$336 billion (year 3). The sum of the annual dollar volumes of deposits located in nonmetropolitan areas in the nationwide area in all large depository institutions is therefore \$1 trillion. For the evaluation period, the Nonmetropolitan Nationwide Community Development Financing Benchmark would be \$10 billion divided by \$1 trillion, or 0.01 (equivalently, 1 percent).

$$\begin{aligned} & \text{Community development loans and investments} \\ & \text{nationwide in nonmetropolitan areas by all large depository institutions (\$10 billion)} \\ & \hline & \text{Deposits nationwide in nonmetropolitan areas in all large depository institutions (\$1 trillion)} \\ & \hline & = \text{Nonmetropolitan Nationwide Community Development Financing Benchmark (1\%)} \end{aligned}$$

d. *Bank State Community Development Financing Metric.* The Board calculates the Bank State Community Development Financing Metric in §228.24(c)(2)(i) for each State in which the bank has a facility-based assessment area by:

1. Summing the bank's annual dollar volume of community development loans and community development investments that benefit or serve a State (which includes all activities within the bank's facility-based assessment areas and outside of its facility-

based assessment areas but within the State) for each year in the evaluation period.

2. Summing the bank's annual dollar volume of deposits located in a State for each year in the evaluation period.

3. Dividing the result of paragraphs II.d.1 of this appendix by the result of paragraph II.d.2 of this appendix.

Example B-5: The bank has a three-year evaluation period. The bank's annual dollar volumes of community development loans and community development investments that benefit or serve the State are \$15 million (year 1), \$17 million (year 2), and \$18 mil-

lion (year 3). The sum of the bank's annual dollar volumes of community development loans and community development investments that benefit or serve the State conducted by a bank is therefore \$50 million. The bank's annual dollar volumes of deposits located in the State are \$1.5 billion (year 1), \$1.6 billion (year 2), and \$1.9 billion (year 3). The sum of the bank's annual dollar volumes of deposits located in the State is therefore \$5 billion. For the evaluation period, the Bank State Community Development Financing Metric would be \$50 million divided by \$5 billion, or 0.01 (equivalently, 1 percent).

Bank's community development loans and investments in the State (\$50 million)

Deposits in the bank in the State (\$5 billion)

= *State Community Development Financing Metric (1%)*

e. *State Community Development Financing Benchmark.* The Board calculates the State Community Development Financing Benchmark in §228.24(c)(2)(ii)(A) by:

1. Summing all large depository institutions' annual dollar volume of community development loans and community development investments that benefit or serve all or part of a State for each year in the evaluation period.

2. Summing all large depository institutions' annual dollar volume of deposits located in the State for each year in the evaluation period.

3. Dividing the result of paragraph II.e.1 of this appendix by the result of paragraph II.e.2 of this appendix.

Example B-6: The applicable benchmark uses a three-year evaluation period. The annual dollar volumes of community development loans and community development in-

vestments that benefit or serve the State conducted by all large depository institutions are \$2.3 billion (year 1), \$2.5 billion (year 2), and \$2.7 billion (year 3). The sum of the annual dollar volumes of community development loans and community development investments that benefit or serve the State conducted by all large depository institutions is therefore \$7.5 billion. The annual dollar volumes of deposits located in the State in all large depository institutions are \$160 billion (year 1), \$170 billion (year 2), and \$170 billion (year 3). The sum of the annual dollar volumes of deposits located in the State in all large depository institutions is therefore \$500 billion. For the evaluation period, the State Community Development Financing Benchmark would be \$7.5 billion divided by \$500 billion, or 0.015 (equivalently, 1.5 percent).

*Community development loans and investments
in the State by all large depository institutions (\$7.5 billion)*
Deposits in the State in all large depository institutions (\$500 billion)

= *State Community Development Financing Benchmark (1.5%)*

f. *State Weighted Assessment Area Community Development Financing Benchmark.* The Board calculates the State Weighted Assessment Area Community Development Financing Benchmark in §228.24(c)(2)(ii)(B) by averaging all of the applicable Assessment Area Community Development Financing Benchmarks (see paragraph II.b of this appendix)

in a State for the evaluation period, after weighting each pursuant to paragraph II.o of this appendix.

Example B-7: The bank has two facility-based assessment areas (FBAA) in a State (FBAA-1 and FBAA-2). The Board does not evaluate the bank's automobile lending.

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• In FBAA-1, the Assessment Area Community Development Financing Benchmark is 3.0 percent. FBAA-1 represents 70 percent of the combined dollar volume of the deposits in the bank in FBAA-1 and FBAA-2. FBAA-1 represents 65 percent of the bank's combined dollar volume of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1 and FBAA-2. FBAA-1 represents 55 percent of the bank's number of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1 and FBAA-2.

• In FBAA-2, the Assessment Area Community Development Financing Benchmark is 5.0 percent. FBAA-2 represents 30 percent of the combined dollar volume of the deposits in the bank in FBAA-1 and FBAA-2. FBAA-2 represents 35 percent of the bank's combined dollar volume of originated and

purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1 and FBAA-2. FBAA-2 represents 45 percent of the bank's number of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1 and FBAA-2.

	FBAA-1	FBAA-2
Benchmark	3.0	5.0
% of deposits	70%	30%
% of lending dollar volume	65%	35%
% of number of loans	55%	45%

• *Calculating weights for FBAA-1:*

○ The percent of originated and purchased closed-end home mortgage lending, small business lending, and small farm lending, based on the combination of loan dollars and loan count, as defined in §228.12, for FBAA-1 is 60 percent.

$$\frac{\text{Percent of lending dollar volume (55\%)} + \text{Percent of loans (65\%)}}{2}$$

$$= \text{Percent of lending FBAA - 1 (60\%)}$$

○ The weight for FBAA-1 is 65 percent.

$$\frac{\text{Percent of deposits (70\%)} + \text{Percent of lending (60\%)}}{2}$$

$$= \text{Weight for FBAA - 1 (65\%)}$$

• Calculating weights for FBAA-2:
○ The percent of originated and purchased closed-end home mortgage lending, small

business lending, and small farm lending, based on the combination of loan dollars and loan count, for FBAA-2 is 40 percent.

$$\frac{\text{Percent of lending dollar volume (35\%)} + \text{Percent of loans (45\%)}}{2}$$

$$= \text{Percent of lending FBAA - 2 (40\%)}$$

○ The weight for FBAA-2 is 35 percent.

$$\frac{\text{Percent of deposits (30\%)} + \text{Percent of lending (40\%)}}{2} = \text{Weight for FBAA-2 (35\%)}$$

• Applying the calculated weights for FBAA-1 and FBAA-2:

o The bank's State Weighted Assessment Area Community Development Financing Benchmark is 3.7 percent.

(Weight for FBAA-1 (0.65) × Benchmark in FBAA-1 (3%)) + (Weight for FBAA-2 (0.35) × Benchmark in FBAA-2 (5%)) = State Weighted Assessment Area Community Development Financing Benchmark (3.7%)

g. *Bank Multistate MSA Community Development Financing Metric.* The Board calculates the Bank Multistate MSA Community Development Financing Metric in §228.24(d)(2)(i) for each multistate MSA in which the bank has a facility-based assessment area by:

1. Summing the bank's annual dollar volume of community development loans and community development investments that benefit or serve a multistate MSA (which includes all activities within the bank's facility-based assessment areas and outside of its facility-based assessment areas but within the multistate MSA) for each year in the evaluation period.

2. Summing the bank's annual dollar volume of deposits located in the multistate MSA for each year in the evaluation period.

3. Dividing the result of paragraph II.g.1 of this appendix by the result of paragraph II.g.2 of this appendix.

Example B-8: The bank has a three-year evaluation period. The bank's annual dollar volumes of community development loans and community development investments that benefit or serve a multistate MSA are \$47 million (year 1), \$51 million (year 2), and \$52 million (year 3). The sum of the bank's annual dollar volumes of community development loans and community development investments that benefit or serve a multistate MSA conducted by the bank is therefore \$150 million. The bank's annual dollar volumes of deposits located in the multistate MSA are \$3.1 billion (year 1), \$3.3 billion (year 2), and \$3.6 billion (year 3). The sum of the bank's annual dollar volumes of deposits located in the multistate MSA is therefore \$10 billion. For the evaluation period, the Bank Multistate MSA Community Development Financing Metric would be \$150 million divided by \$10 billion, or 0.015 (equivalently, 1.5 percent).

Bank's community development loans and investments in multistate MSA (\$150 million)

Deposits in the bank in multistate MSA (\$10 billion)

= *Bank's Multistate MSA Community Development Financing Metric (1.5%)*

h. *Multistate MSA Community Development Financing Benchmark.* The Board calculates the Multistate MSA Community Development Financing Benchmark in §228.24(d)(2)(ii)(A) by:

1. Summing all large depository institutions' annual dollar volume of community development loans and community development investments that benefit or serve all or part of a multistate MSA for each year in the evaluation period.

2. Summing all large depository institutions' annual dollar volume of deposits located in the multistate MSA for each year in the evaluation period.

3. Dividing the result of paragraph II.h.1 of this appendix by the result of paragraph II.h.2 of this appendix.

Example B-9: The applicable benchmark uses a three-year evaluation period. The annual dollar volumes of community development loans and community development investments that benefit or serve a multistate

MSA for all large depository institutions are \$135 million (year 1), \$140 million (year 2), and \$145 million (year 3). The sum of the annual dollar volumes of community development loans and community development investments that benefit or serve a multistate MSA conducted by all large depository institutions is therefore \$420 million. The annual dollar volumes of deposits located in the multistate MSA in all large depository institutions are \$4 billion (year 1), \$5 billion (year 2), and \$6 billion (year 3). The sum of the annual dollar volume of deposits located in the multistate MSA in all large depository institutions is therefore \$15 billion. For the evaluation period, the Multistate MSA Community Development Financing Benchmark would be \$420 million divided by \$15 billion, or 0.028 (equivalently, 2.8 percent).

All large depository institutions' community development loans and investments in multistate MSA (\$420 million)

Deposits in multistate MSA in all large depository institutions (\$15 billion)

= Multistate MSA Community Development Financing Benchmark (2.8%)

i. *Multistate MSA Weighted Assessment Area Community Development Financing Benchmark.* The Board calculates the Multistate MSA Weighted Assessment Area Community Development Financing Benchmark in §228.24(c)(3)(ii)(B)(2) by averaging all of the bank's Assessment Area Community Development Financing Benchmarks (see paragraph II.b of this appendix) in a multistate MSA for the evaluation period, after weighting each pursuant to paragraph II.o of this appendix.

Example B-10: The bank has two facility-based assessment areas in a multistate MSA (FBAA-1 and FBAA-2). The Board does not evaluate the bank's automobile lending.

• In FBAA-1, the bank's Assessment Area Community Development Financing Benchmark is 3.0 percent. FBAA-1 represents 70 percent of the total dollar volume of the deposits in the bank in FBAA-1 and FBAA-2. FBAA-1 represents 65 percent of the bank's combined dollar volume of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1 and FBAA-2. FBAA-1 represents 55 percent of the bank's number of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1 and FBAA-2;

• In FBAA-2, the bank's Assessment Area Community Development Financing Benchmark is 5.0 percent. FBAA-2 represents 30 percent of the total dollar volume of the deposits in the bank in FBAA-1 and FBAA-2. FBAA-2 represents 35 percent of the bank's combined dollar volume of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1 and FBAA-2. FBAA-2 represents 45 percent of the bank's number of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1 and FBAA-2.

	FBAA-1	FBAA-2
Benchmark	3.0	5.0
% of deposits	70%	30%
% of lending dollar volume	65%	35%
% of loans	55%	45%

• *Calculating weights for FBAA-1:*

○ The percent of originated and purchased closed-end home mortgage lending, small business lending, and small farm lending, based on the combination of loan dollars and loan count, as defined in §228.12, for FBAA-1 is 60 percent.

Percent of lending dollar volume (55%) + Percent of loans (65%)

2

= Percent of lending FBAA - 1 (60%)

○ The weight for FBAA-1 is 65 percent.

Percent of deposits (70%) + Percent of lending (60%)
2 = Weight for FBAA - 1 (65%)

• *Calculating weights for FBAA-2:*

○ The percent of originated and purchased closed-end home mortgage lending, small business lending, and small farm lending, based on the combination of loan dollars and

loan count, as defined in §228.12, for FBAA-2 is 40 percent.

$$\frac{\text{Percent of lending dollar volume (35\%)} + \text{Percent of loans (45\%)}}{2}$$

$$= \text{Percent of lending FBAA} - 2 \text{ (40\%)}$$

- The weight for FBAA-2 is 35 percent.

$$\frac{\text{Percent of deposits (30\%)} + \text{Percent of lending (40\%)}}{2} = \text{Weight for assessment area 2 (35\%)}$$

• Applying the calculated weights from FBAA-1 and FBAA-2:

○ The bank's Multistate MSA Weighted Assessment Area Community Development Financing Benchmark is 3.7 percent.

(Weight of FBAA-1 (0.65) × Benchmark in FBAA-1 (3%)) + (weight of FBAA-2 (0.35) × benchmark in FBAA-2 (5%)) = Multistate MSA Weighted Assessment Area Community Development Financing Benchmark (3.7%)

j. *Bank Nationwide Community Development Financing Metric.* The Board calculates the Bank Nationwide Community Development Financing Metric in §228.24(e)(2)(i) for the nationwide area by:

1. Summing the bank's annual dollar volume of community development loans and community development investments that benefit or serve the nationwide area (which includes all activities within the bank's facility-based assessment areas and outside of its facility-based assessment areas within the nationwide area) for each year in the evaluation period.

2. Summing the bank's annual dollar volume of deposits located in the nationwide area for each year in the evaluation period.

3. Dividing the results of paragraph II.j.1 of this appendix by the results of paragraph II.j.2 of this appendix.

Example B-11: The bank has a three-year evaluation period. The bank's annual dollar volumes of community development loans and community development investments that benefit or serve the nationwide area are \$60 million (year 1), \$65 million (year 2), and \$75 million (year 3). The sum of the bank's annual dollar volumes of community development loans and community development investments that benefit or serve the nationwide area conducted by the bank is therefore \$200 million. The bank's annual dollar volumes of deposits located in the nationwide area are \$2.5 billion (year 1), \$2.7 billion (year 2), and \$2.8 billion (year 3). The sum of the bank's annual dollar volumes of deposits located in the nationwide area is therefore \$8 billion. For the evaluation period, the Bank Nationwide Community Development Financing Metric would be \$200 million divided by \$8 billion, or 0.025 (equivalently, 2.5 percent).

$$\frac{\text{Bank's community development loans and investments nationwide (\$200 million)}}{\text{Deposits nationwide in the bank (\$8 billion)}}$$

$$= \text{Nationwide Community Development Financing Metric (2.5\%)}$$

k. *Nationwide Community Development Financing Benchmark.* The Board calculates the Nationwide Community Development Financing Benchmark in §228.24(e)(2)(ii)(A) by:

1. Summing all large depository institutions' annual dollar volume of community development loans and community development investments that benefit or serve all or part of the nationwide area for each year in the evaluation period.

2. Summing all depository institutions' annual dollar volume of deposits located in the nationwide area for each year in the evaluation period.

3. Dividing the result of paragraph II.k.1 of this appendix by the result of paragraph II.k.2 of this appendix.

Example B-12: The applicable benchmark uses a three-year evaluation period. The annual dollar volumes of community development loans and community development investments that benefit or serve the nationwide area for all large depository institutions are \$100 billion (year 1), \$103 billion (year 2), and \$107 billion (year 3). The sum of the annual dollar volumes of community development loans and community development investments that benefit or serve the nationwide area conducted by all large depository institutions is therefore \$310 billion.

The annual dollar volumes of deposits located in the nationwide area in all large depository institutions are \$15.2 trillion (year 1), \$15.3 trillion (year 2), and \$15.5 trillion (year 3). The sum of the annual dollar volumes of deposits located in the nationwide area in all large depository institutions is \$46 trillion. For the evaluation period, the Nationwide Community Development Financing Benchmark would be \$310 billion divided by \$46 trillion, or 0.0067 (equivalently, 0.67 percent).

$$\frac{\text{Community development loans and investments nationwide by all large depository institutions (\$310 billion)}}{\text{Deposits nationwide in all large depository institutions (\$46 trillion)}} = \text{Nationwide Community Development Financing Benchmark (0.67\%)}$$

1. *Nationwide Weighted Assessment Area Community Development Financing Benchmark.* The Board calculates the Nationwide Weighted Assessment Area Community Development Financing Benchmark in §228.24(e)(2)(ii)(B) by averaging all of the bank's Assessment Area Community Development Financing Benchmarks (see paragraph II.b of this appendix) in the nationwide area, after weighting each pursuant to paragraph II.o of this appendix.

Example B-13: The bank has three facility-based assessment areas in the nationwide area (FBAA-1, FBAA-2, and FBAA-3).

- In FBAA-1, the bank's Assessment Area Community Development Financing Benchmark is 2.0 percent. FBAA-1 represents 60 percent of the combined dollar volume of the deposits in the bank in FBAA-1, FBAA-2, and FBAA-3. FBAA-1 represents 40 percent of the bank's combined dollar volume of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1, FBAA-2, and FBAA-3. FBAA-1 represents 60 percent of the bank's number of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1, FBAA-2, and FBAA-3.

- In FBAA-2, the bank's Assessment Area Community Development Financing Benchmark is 3.0 percent. FBAA-2 represents 30 percent of the combined dollar volume of the deposits in the bank in FBAA-1, FBAA-2, and FBAA-3. FBAA-2 represents 45 percent of the bank's combined dollar volume of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1, FBAA-2, and FBAA-3. FBAA-2 represents 35 percent of the bank's number of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1, FBAA-2, and FBAA-3.

- In FBAA-3, the bank's Assessment Area Community Development Financing Benchmark is 4.0 percent. FBAA-3 represents 10 percent of the combined dollar volume of the deposits in the bank in FBAA-1, FBAA-2, and FBAA-3. FBAA-3 represents 15 percent of the bank's combined dollar volume of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1, FBAA-2, and FBAA-3. FBAA-3 represents 5 percent of the bank's number of originated and purchased closed-end home mortgage loans, small business loans, and small farm loans in FBAA-1, FBAA-2, and FBAA-3.

	FBAA-1	FBAA-2	FBAA-3
Benchmark	2.0	3.0	4.0
% of deposits	60%	30%	10%
% of lending dollar volume	40%	45%	15%
% of loans	60%	35%	5%

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- *Calculating weights for FBAA-1:*
 - The percent of originated and purchased closed-end home mortgage lending, small business lending, and small farm lending, based on the combination of loan dollars and loan count, as defined in §228.12, for FBAA-1 is 50 percent.

$$\frac{\text{Percent of lending dollar volume (40\%)} + \text{Percent of loans (60\%)}}{2}$$
$$= \text{Percent of lending FBAA - 1 (50\%)}$$

- The weight for FBAA-1 is 55 percent.

$$\frac{\text{Percent of deposits (60\%)} + \text{Percent of lending (50\%)}}{2}$$
$$= \text{Weight for FBAA - 1 (55\%)}$$

- *Calculating weights for FBAA-2:*
 - The percent of originated and purchased closed-end home mortgage lending, small business lending, and small farm lending, based on the combination of loan dollars and loan count, as defined in §228.12, for FBAA-2 is 40 percent.

$$\frac{\text{Percent of lending dollar volume (45\%)} + \text{Percent of loans (35\%)}}{2}$$
$$= \text{Percent of lending FBAA - 2 (40\%)}$$

- The weight for FBAA-2 is 35 percent.

$$\frac{\text{Percent of deposits (30\%)} + \text{Percent of lending (40\%)}}{2}$$
$$= \text{Weight for FBAA - 2 (35\%)}$$

- *Calculating weights for FBAA-3:*
 - The percent of originated and purchased closed-end home mortgage lending, small business lending, and small farm lending, based on the combination of loan dollars and loan count, as defined in §228.12, for FBAA-3 is 10 percent.

$$\frac{\text{Percent of lending dollar volume (15\%)} + \text{Percent of loans (5\%)}}{2}$$

$$= \text{Percent of lending FBAA} - 3 \text{ (10\%)}$$

- The weight for FBAA-3 is 10 percent.

$$\frac{\text{Percent of deposits (10\%)} + \text{Percent of lending (10\%)}}{2}$$

$$= \text{Weight for FBAA} - 3 \text{ (10\%)}$$

- Applying the calculated weights from FBAA-1, FBAA-2, and FBAA-3:

- The bank's Nationwide Weighted Assessment Area Community Development Financing Benchmark is 2.55 percent.

(Weight of FBAA-1(0.55) × Benchmark in FBAA-1 (2%)) + (Weight of FBAA-2 (0.35) × Benchmark FBAA-2 (3%)) + (Weight of FBAA-3 (0.10) × Benchmark in FBAA-3 (4%)) = Nationwide Weighted Assessment Area Community Development Financing Benchmark (2.55%)

m. *Bank Nationwide Community Development Investment Metric.* The Board calculates the Bank Nationwide Community Development Investment Metric in §228.24(e)(2)(iii) for the nationwide area by:

1. Summing the bank's annual dollar volume of community development investments, excluding mortgage-backed securities, that benefit or serve the nationwide area (which includes all activities within the bank's facility-based assessment areas and outside of its facility-based assessment areas within the nationwide area) for each year in the evaluation period.

2. Summing the bank's annual dollar volume of deposits located in the nationwide area for each year in the evaluation period.

3. Dividing the results of paragraph II.m.1 of this appendix by the results of paragraph II.m.2 of this appendix.

Example B-14: The bank has a three-year evaluation period. The bank's annual dollar volumes of community development investments (excluding mortgage-backed securities) that benefit or serve the nationwide area are \$600 million (year 1), \$680 million (year 2), and \$720 million (year 3). The sum of the bank's annual dollar volumes of community development investments (excluding mortgage-backed securities) that benefit or serve the nationwide area conducted by the bank is therefore \$2 billion. The bank's annual dollar volumes of deposits located in the nationwide area are \$24 billion (year 1), \$27 billion (year 2), and \$29 billion (year 3). The sum of the bank's annual dollar volumes of deposits located in the nationwide area is therefore \$80 billion. For the evaluation period, the Bank Nationwide Community Development Investment Metric would be \$2 billion divided by \$80 billion, or 0.025 (equivalently, 2.5 percent).

$$\frac{\text{Bank's community development investments nationwide (\$2 billion)}}{\text{Deposits at the bank nationwide (\$80 billion)}}$$

$$= \text{Nationwide Community Development Investment Metric (2.5\%)}$$

n. *Nationwide Community Development Investment Benchmark.* The Board calculates the Nationwide Community Development Investment Benchmark in §228.24(e)(2)(iv) by:

1. Summing the annual dollar volume of community development investments that benefit or serve all or part of the nationwide area, excluding mortgage-backed securities, for each year in the evaluation period for all

large depository institutions that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years.

2. Summing the annual dollar volume of deposits in the nationwide area for each year in the evaluation period for all large depository institutions that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years.

3. Dividing the result of paragraph II.n.1 of this appendix by the result of paragraph II.n.2 of this appendix.

Example B-15: The applicable benchmark uses a three-year evaluation period. The annual dollar volumes of community development investments (excluding mortgage-backed securities) that benefit or serve the nationwide area for all large depository institutions are \$350 billion (year 1), \$360 bil-

lion (year 2), and \$390 billion (year 3). The sum of the annual dollar volumes of community development investments (excluding mortgage-backed securities) that benefit or serve the nationwide area conducted by all large depository institutions is therefore \$1.1 trillion. The annual dollar volumes of deposits located in the nationwide area in all large depository institutions are \$21.9 trillion (year 1), \$22 trillion (year 2), and \$22.1 trillion (year 3). The sum of the annual dollar volumes of deposits located in the nationwide area in all large depository institutions is therefore \$66 trillion. For the evaluation period, the Nationwide Community Development Investment Benchmark would be \$1.1 trillion divided by \$66 trillion, or 0.0167 (equivalently, 1.67 percent).

Community development investments nationwide by all large depository institutions (\$1.1 trillion)
Deposits nationwide at all large depository institutions (\$66 trillion)

= Nationwide Community Development Investment Benchmark (1.67%)

o. *Weighting of benchmarks.* The Board calculates a weighted average of the Assessment Area Community Development Financing Benchmarks for a bank's facility-based assessment areas in each State or multistate MSA, as applicable, or the nationwide area. For the weighted average for a State or multistate MSA, the Board considers Assessment Area Community Development Financing Benchmarks for facility-based assessment areas in the State or multistate MSA pursuant to §228.28(c). For the weighted average for the nationwide area, the Board considers Assessment Area Community Development Financing Benchmarks for all of the bank's facility-based assessment areas. Each Assessment Area Community Development Financing Benchmark is weighted by the average of the following two ratios:

1. The ratio measuring the share of the deposits in the bank in the facility-based assessment area, calculated by:

i. Summing, over the years in the evaluation period, the bank's annual dollar volume of deposits in the facility-based assessment area.

ii. Summing, over the years in the evaluation period, the bank's annual dollar volume of deposits in all facility-based assessment areas in the State, multistate MSA, or nationwide area, as applicable.

iii. Dividing the result of paragraph II.o.1.i of this appendix by the result of paragraph II.o.1.ii of this appendix.

For a bank that reports deposits data pursuant to §228.42(b)(3), the bank's annual dollar volume of deposits in a facility-based assessment area is the total of annual average

daily balances of deposits reported by the bank in counties in the facility-based assessment area for that year. For a bank that does not report deposits data pursuant to §228.42(b)(3), the bank's annual dollar volume of deposits in a facility-based assessment area is the total of deposits assigned to facilities reported by the bank in the facility-based assessment area in the FDIC's Summary of Deposits for that year.

2. The ratio measuring the share of the bank's loans in the facility-based assessment area, based on the combination of loan dollars and loan count, as defined in §228.12, calculated by dividing:

i. The bank's closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank, automobile loans in the facility-based assessment area originated or purchased during the evaluation period; by

ii. The bank's closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank, automobile loans in all facility-based assessment areas in the State, multistate MSA, or nationwide area, as applicable, originated or purchased during the evaluation period.

p. *Combined score for facility-based assessment area conclusions and the metrics and benchmarks analyses and the impact and responsiveness reviews.* 1. As described in §228.24(c) through (e), the Board assigns a conclusion corresponding to the conclusion category that is nearest to the performance score calculated in paragraph p.2.iii of this appendix for a bank's performance under the Community Development Financing Test in

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each State or multistate MSA, as applicable pursuant to §228.28(c), and for the institution as follows:

Performance score	Conclusion
8.5 or more	Outstanding.
6.5 or more but less than 8.5	High Satisfactory.
4.5 or more but less than 6.5	Low Satisfactory.
1.5 or more but less than 4.5	Needs to Improve.
Less than 1.5	Substantial Noncompliance.

2. The Board bases a Community Development Financing Test combined performance score on the following:

i. *Component one—Weighted average of the bank’s performance scores corresponding to facility-based assessment area conclusions.* The Board derives a performance score based on a weighted average of the performance scores corresponding to conclusions for facility-based assessment areas in each State or multistate MSA, as applicable, and the nationwide area, calculated pursuant to section IV of this appendix.

ii. *Component two—Bank score for metric and benchmarks analyses and the impact and responsiveness reviews.* For each State or multistate MSA, as applicable, and the nationwide area, the Board determines a performance score (as shown in paragraph IV.a of this appendix) corresponding to a conclusion category by considering the relevant metric and benchmarks and a review of the impact and responsiveness of the bank’s community development loans and community development investments. In the nationwide area, for large banks that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years, the Board also considers whether the bank’s performance under the Nationwide Community Development Investment Metric, compared to the Community Development Investment Benchmark, contributes positively to the bank’s Community Development Financing Test conclusion.

iii. *Combined score.* The Board associates the performance score calculated pursuant

to this paragraph II.p.2.iii with a conclusion category. The Board derives the combined performance score corresponding to a conclusion category as follows:

A. The Board calculates the average of two components to determine weighting:

1. The percentage, calculated using the combination of loan dollars and loan count, as defined in §228.12, of the bank’s total originated and purchased closed-end home mortgage lending, small business lending, small farm lending, and automobile lending, as applicable, in its facility-based assessment areas out of all of the bank’s originated and purchased closed-end home mortgage lending, small business lending, small farm lending, and automobile lending, as applicable, in the State or multistate MSA, as applicable, or the nationwide area during the evaluation period; and

2. The percentage of the total dollar volume of deposits in its facility-based assessment areas out of all of the deposits in the bank in the State or multistate MSA, as applicable, or the nationwide area during the evaluation period. For purposes of this paragraph II.p.2.iii.A.2, “deposits” excludes deposits reported under §228.42(b)(3)(ii).

B. If the average is:

1. At least 80 percent, then component one receives a 50 percent weight and component two receives a 50 percent weight.

2. At least 60 percent but less than 80 percent, then component one receives a 40 percent weight and component two receives a 60 percent weight.

3. At least 40 percent but less than 60 percent, then component one receives a 30 percent weight and component two receives a 70 percent weight.

4. At least 20 percent but less than 40 percent, then component one receives a 20 percent weight and component two receives an 80 percent weight.

5. Below 20 percent, then component one receives a 10 percent weight and component two receives a 90 percent weight.

TABLE 2 TO APPENDIX B—COMPONENT WEIGHTS FOR COMBINED PERFORMANCE SCORE

Average of the percentage of deposits and percentage of loans	Weight on component 1 (percent)	Weight on component 2 (percent)
Greater than or equal to 80%	50	50
Greater than or equal to 60% but less than 80%	40	60
Greater than or equal to 40% but less than 60%	30	70
Greater than or equal to 20% but less than 40%	20	80
Below 20%	10	90

Example B-16:

- Assume that the weighted average of the bank’s performance scores corresponding to its facility-based assessment area conclusions nationwide is 7.5. Assume further that the bank score for the metrics and bench-

marks analysis and the review of the impact and responsiveness of the bank’s community development loans and community development investments nationwide is 6.

- Assume further that 95 percent of the deposits in the bank and 75 percent of the

bank's originated and purchased closed-end home mortgage lending, small business lending, small farm lending, and automobile loans (calculated using the combination of loan dollars and loan count, as defined in §228.12) during the evaluation period are associated with its facility-based assessment areas.

- The Board assigns weights for component one and component two based on the share of deposits in the bank and the share of the bank's originated and purchased closed-end home mortgage lending, small business lending, small farm lending, and automobile lending, calculated using the combination of loan dollars and loan count, as defined in §228.12, associated with its facility-based assessment areas: (95 percent of deposits + 75 percent of originated and purchased closed-end home mortgage lending, small business lending, small farm lending, and automobile lending, based on the combination of loan dollars and loan count)/2 = 85 percent, which is between 80 percent and 100 percent.

- Thus, the weighted average of the bank's facility-based assessment area conclusions in the nationwide area (component one—paragraph II.p.2.i of this appendix) receives a weight of 50 percent, and the metrics and benchmarks analysis and the review of the impact and responsiveness of the bank's community development loans and community development investments in the nationwide area (component two—paragraph II.p.2.ii of this appendix) receives a weight of 50 percent.

- Using the point values—"Outstanding" (10 points); "High Satisfactory" (7 points); "Low Satisfactory" (6 points); "Needs to Improve" (3 points); "Substantial Noncompliance" (0 points)—the bank's Community Development Financing Test conclusion at the institution level is a "High Satisfactory": (0.50 weight × 7.5 points for the weighted average of the performance scores corresponding to the bank's facility-based assessment area conclusions nationwide) + (0.50 weight × 6 points for the bank score for metrics and benchmarks analysis and review of the impact and responsiveness of the bank's community development loans and community development investments nationwide) results in a performance score of 6.75, which is closest to the point value (7) associated with "High Satisfactory."

III. COMMUNITY DEVELOPMENT FINANCING TEST FOR LIMITED PURPOSE BANKS IN §228.26—CALCULATIONS FOR METRICS AND BENCHMARKS

The calculations for metrics and benchmarks for Community Development Financing Test for Limited Purpose Banks in §228.26 are provided in this section. Additional information regarding relevant calculation components is set forth in paragraph I.a of this appendix.

a. *Limited Purpose Bank Community Development Financing Metric.* The Board calculates the Limited Purpose Bank Community Development Financing Metric provided in §228.26 by:

1. Summing the bank's annual dollar volume of community development loans and community development investments that benefit or serve the nationwide area for each year in the evaluation period.

2. Summing the bank's annual dollar volume of the assets for each year in the evaluation period.

3. Dividing the result of paragraph III.a.1 of this appendix by the result of paragraph III.a.2 of this appendix.

b. *Nationwide Limited Purpose Bank Community Development Financing Benchmark.* The Board calculates the Nationwide Limited Purpose Bank Community Development Financing Benchmark by:

1. Summing the annual dollar volume of community development loans and community development investments of depository institutions designated as limited purpose banks or savings associations pursuant to 12 CFR 25.26(a) or designated as limited purpose banks pursuant to §228.26(a) or 12 CFR 345.26(a) reported pursuant to §228.42(b) or 12 CFR 25.42(b) or 345.42(b) that benefit or serve all or part of the nationwide area for each year in the evaluation period.

2. Summing the annual dollar volume of assets of depository institutions designated as limited purpose banks or savings associations pursuant to 12 CFR 25.26(a) or designated as limited purpose banks pursuant to §228.26(a) or 12 CFR 345.26(a) that reported community development loans and community development investments pursuant to §228.42(b) or 12 CFR 25.42(b) or 345.42(b) for each year in the evaluation period.

3. Dividing the result of paragraph III.b.1 of this appendix by the result of paragraph III.b.2 of this appendix.

c. *Nationwide Asset-Based Community Development Financing Benchmark.* The Board calculates the Nationwide Asset-Based Community Development Financing Benchmark by:

1. Summing the annual dollar volume of community development loans and community development investments of all depository institutions that reported pursuant to §228.42(b) or 12 CFR 25.42(b) or 345.42(b) that benefit or serve all or part of the nationwide area for each year in the evaluation period.

2. Summing the annual dollar volume of assets of all depository institutions that reported community development loans and community development investments pursuant to §228.42(b) or 12 CFR 25.42(b) or 345.42(b) for each year in the evaluation period.

3. Dividing the result of paragraph III.c.1 of this appendix by the result of paragraph III.c.2 of this appendix.

d. *Limited Purpose Bank Community Development Investment Metric.* The Board calculates

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the Limited Purpose Bank Nationwide Community Development Investment Metric, provided in §228.26(f)(2)(iii), for the nationwide area by:

1. Summing the bank’s annual dollar volume of community development investments, excluding mortgage-backed securities, that benefit or serve the nationwide area for each year in the evaluation period.

2. Summing the bank’s annual dollar volume of assets for each year in the evaluation period.

3. Dividing the results of paragraph III.d.1 of this appendix by the results of paragraph III.d.2 of this appendix.

Example B-17: The bank has a three-year evaluation period. The bank’s annual dollar volumes of community development invest-

ments (excluding mortgage-backed securities) that benefit or serve the nationwide area are \$62 million (year 1), \$65 million (year 2), and \$73 million (year 3). The sum of the bank’s annual dollar volumes of community development investments that benefit or serve the nationwide area conducted by the bank is therefore \$200 million. The bank’s annual dollar volumes of assets in the bank are \$2.4 billion (year 1), \$2.7 billion (year 2), and \$2.9 billion (year 3). The sum of the bank’s annual dollar volumes of assets in the bank over the evaluation period is therefore \$8 billion. For the evaluation period, the Bank Nationwide Community Development Investment Metric would be \$200 million divided by \$8 billion, or 0.025 (equivalently, 2.5 percent).

Bank’s community development investments nationwide (\$200 million)

Assets in the bank (\$8 billion)

= Nationwide Community Development Investment Metric (2.5%)

e. *Nationwide Asset-Based Community Development Investment Benchmark.* The Board calculates the Nationwide Asset-Based Community Development Investment Benchmark, provided in §228.26(f)(2)(iv), by:

1. Summing the annual dollar volume of community development investments, excluding mortgage-backed securities, of all depository institutions that had assets greater than \$10 billion, as of December 31 in both of the prior two calendar years, that benefit or serve all or part of the nationwide area for each year in the evaluation period.

2. Summing the annual dollar volume of assets of all depository institutions that had assets greater than \$10 billion, as of December 31 in both of the prior two calendar years, for each year in the evaluation period.

3. Dividing the result of paragraph III.e.1 of this appendix by the result of paragraph III.e.2 of this appendix.

Example B-18: The applicable benchmark uses a three-year evaluation period. The annual dollar volumes of community develop-

ment investments (excluding mortgage-backed securities) that benefit or serve the nationwide area for all depository institutions that had assets greater than \$10 billion are \$35 billion (year 1), \$37 million (year 2), and \$38 billion (year 3). The sum of the annual dollar volumes of community development investments that benefit or serve the nationwide area conducted by all depository institutions that had assets greater than \$10 billion is therefore \$110 billion. The annual dollar volumes of assets in all depository institutions that had assets greater than \$10 billion are \$1.8 trillion (year 1), \$2.1 trillion (year 2), and \$2.1 trillion (year 3). The sum of the annual dollar volumes of assets in all depository institutions that had assets greater than \$10 billion is therefore \$6 trillion. For the evaluation period, the Nationwide Asset-Based Community Development Investment Benchmark would be \$110 billion divided by \$6 trillion, or 0.0183 (equivalently, 1.83 percent).

Community development investments

nationwide by depository institutions with assets greater than \$10 billion (\$110 billion)

Assets of depository institutions with assets greater than \$10 billion (\$6 trillion)

= Nationwide Asset

– Based Community Development Investment Benchmark (1.83%)

IV. WEIGHTING OF CONCLUSIONS

The Board calculates component one of the combined performance score, as set forth in paragraph II.p.2.i of this appendix, for the Community Development Financing Test in § 228.24 and a performance score for the Community Development Services Test in § 228.25 in each State, multistate MSA, and the nationwide area, as applicable, as described in this section.

a. The Board translates the Community Development Financing Test and the Community Development Services Test conclusions for facility-based assessment areas into numerical performance scores, as follows:

Conclusion	Performance score
Outstanding	10
High Satisfactory	7
Low Satisfactory	6
Needs to Improve	3
Substantial Noncompliance	0

b. The Board calculates the weighted average of facility-based assessment area performance scores for a State or multistate MSA, as applicable, and for the institution. For the weighted average for a State or multistate MSA, the Board considers facility-based assessment areas in the State or multistate MSA pursuant to § 228.28(c). For the weighted average for the institution, the Board considers all of the bank’s facility-based assessment areas. Each facility-based assessment area performance score is weighted by the average the following two ratios:

1. The ratio measuring the share of the deposits in the bank in the facility-based assessment area, calculated by:

i. Summing, over the years in the evaluation period, the bank’s annual dollar volume of deposits in the facility-based assessment area.

ii. Summing, over the years in the evaluation period, the bank’s annual dollar volume of deposits in all facility-based assessment areas in the State, in the multistate MSA, or for the nationwide area, as applicable.

iii. Dividing the result of paragraph IV.b.1.i of this appendix by the result of paragraph IV.b.1.ii of this appendix.

For a bank that reports deposits data pursuant to § 228.42(b)(3), the bank’s annual dollar volume of deposits in a facility-based assessment area is the total of annual average daily balances of deposits reported by the bank in counties in the facility-based assessment area for that year. For a bank that does not report deposits data pursuant to § 228.42(b)(3), the bank’s annual dollar volume of deposits in a facility-based assessment area is the total of deposits assigned to facilities reported by the bank in the facility-based assessment area in the FDIC’s Summary of Deposits for that year.

2. The ratio measuring the share of the bank’s loans in the facility-based assessment area, based on the combination of loan dollars and loan count, as defined in § 228.12, calculated by dividing:

i. The bank’s closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank, automobile loans in the facility-based assessment area originated or purchased during the evaluation period; by

ii. The bank’s closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank, automobile loans in all facility-based assessment areas in the State, in the multistate MSA, or for the nationwide area, as applicable, originated or purchased during the evaluation period.

[Reg. BB, 89 FR 7188, Feb. 1, 2024, as amended at 89 FR 22068, Mar. 29, 2024]

APPENDIX C TO PART 228—PERFORMANCE TEST CONCLUSIONS

a. *Performance test conclusions, in general.* For a bank evaluated under, as applicable, the Retail Lending Test in § 228.22, the Retail Services and Products Test in § 228.23, the Community Development Financing Test in § 228.24, the Community Development Services Test in § 228.25, and the Community Development Financing Test for Limited Purpose Banks in § 228.26, the Board assigns conclusions for the bank’s CRA performance pursuant to these tests and this appendix. In assigning conclusions, the Board may consider performance context information as provided in § 228.21(d).

b. *Retail Lending Test conclusions.* The Board assigns Retail Lending Test conclusions for each applicable Retail Lending Test Area, each State or multistate MSA, as applicable pursuant to § 228.28(c), and for the institution.

1. *Retail Lending Test Area.* For each applicable Retail Lending Test Area, the Board assigns a Retail Lending Test conclusion and corresponding performance score pursuant to § 228.22(h)(1), as follows:

Conclusion	Performance score
Outstanding	10
High Satisfactory	7
Low Satisfactory	6
Needs to Improve	3
Substantial Noncompliance	0

2. *State, multistate MSA, and institution.* The Board assigns the Retail Lending Test conclusions for a bank’s performance in each State or multistate MSA, as applicable, and for the institution, as set forth in section VIII of appendix A to this part.

c. *Retail Services and Products Test conclusions.* The Board assigns Retail Services and

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Products Test conclusions for each facility-based assessment area, for each State or multistate MSA, as applicable pursuant to §228.28(c), and for the institution. For a bank that does not operate any branches, a main office described in §228.23(a)(2), or remote service facilities, the Board assigns the bank's digital delivery systems and other delivery systems conclusion as the Retail Services and Product Test conclusion for the State or multistate MSA, as applicable.

1. *Facility-based assessment area.* The Board assigns a Retail Services and Products Test conclusion for a bank's performance in a facility-based assessment area based on an evaluation of the bank's branch availability and services and remote services facilities availability, if applicable, pursuant to §228.23(b)(2) and (3), respectively.

2. *State, multistate MSA, and institution.* The Board develops the Retail Services and Products Test conclusions for States, multistate MSAs, and the institution as described in this paragraph c.2.

1. The Board translates Retail Services and Products Test conclusions for facility-based assessment areas into numerical performance scores as follows:

Conclusion	Performance score
Outstanding	10
High Satisfactory	7
Low Satisfactory	6
Needs to Improve	3
Substantial Noncompliance	0

ii. The Board calculates the weighted average of facility-based assessment area performance scores for a State or multistate MSA, as applicable, and for the institution. For the weighted average for a State or multistate MSA, the Board considers facility-based assessment areas in the State or multistate MSA pursuant to §228.28(c). For the weighted average for the institution, the Board considers all of the bank's facility-based assessment areas. Each facility-based assessment area performance score is weighted by the average the following two ratios:

A. The ratio measuring the share of the bank's deposits in the facility-based assessment area, calculated by:

1. Summing, over the years in the evaluation period, the bank's annual dollar volume of deposits in the facility-based assessment area.

2. Summing, over the years in the evaluation period, the bank's annual dollar volume of deposits in all facility-based assessment areas in the State, in the multistate MSA, or for the institution, as applicable.

3. Dividing the result of paragraph c.2.ii.A.1 of this appendix by the result of paragraph c.2.ii.A.2 of this appendix.

For a bank that reports deposits data pursuant to §228.42(b)(3), the bank's annual dollar volume of deposits in a facility-based assessment area is the total of annual average daily balances of deposits reported by the bank in counties in the facility-based assessment area for that year. For a bank that does not report deposits data pursuant to §228.42(b)(3), the bank's annual dollar volume of deposits in a facility-based assessment area is the total of deposits assigned to facilities reported by the bank in the facility-based assessment area in the FDIC's Summary of Deposits for that year.

B. The ratio measuring the share of the bank's loans in the facility-based assessment area, based on the combination of loan dollars and loan count, as defined in §228.12, calculated by dividing:

1. The bank's closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank, automobile loans in the facility-based assessment area originated or purchased during the evaluation period; by

2. The bank's closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank, automobile loans in all facility-based assessment areas in the State, in the multistate MSA, or for the institution, as applicable, originated or purchased during the evaluation period.

iii. For a State or multistate MSA, as applicable, the Board assigns a Retail Services and Products Test conclusion corresponding to the conclusion category that is nearest to the weighted average for the State or multistate MSA calculated pursuant to paragraph c.2.ii of this appendix (*i.e.*, the performance score for the Retail Services and Products Test for the State or multistate MSA).

Performance score for the retail services and products test	Conclusion
8.5 or more	Outstanding.
6.5 or more but less than 8.5	High Satisfactory.
4.5 or more but less than 6.5	Low Satisfactory.
1.5 or more but less than 4.5	Needs to Improve.
less than 1.5	Substantial Noncompliance.

iv. For the institution, the Board assigns a Retail Services and Products Test conclusion based on the bank's combined retail banking services conclusion, developed pursuant to paragraph c.2.iv.A of this appendix, and an evaluation of the bank's retail banking products, pursuant to paragraph c.2.iv.B of this appendix. The Board translates the Retail Services and Products Test conclusion for the institution into a numerical performance score, as follows:

Conclusion	Performance score
Outstanding	10

Conclusion	Performance score
High Satisfactory	7
Low Satisfactory	6
Needs to Improve	3
Substantial Noncompliance	0

A. *Combined retail banking services conclusion.* 1. *In general.* The Board evaluates the bank’s retail banking services, as applicable, and assigns a combined retail banking services conclusion based the weighted average for the institution calculated pursuant to paragraph c.2.ii of this appendix and a digital and other delivery systems conclusion, assigned pursuant to paragraph c.2.iv.A.1 of this appendix. For a large bank without branches, a main office described in § 228.23(a)(2), or remote service facilities, the Board assigns a combined retail banking services conclusion based only on a digital delivery systems and other delivery systems conclusion, assigned pursuant to paragraph c.2.iv.A.1 of this appendix.

2. *Digital delivery systems and other delivery systems conclusion.* The Board assigns a digital delivery systems and other delivery systems conclusion based on an evaluation of a bank’s digital delivery systems and other delivery systems pursuant to § 228.23(b)(4).

B. *Retail banking products evaluation.* The Board evaluates the bank’s retail banking products offered in the bank’s facility-based assessment areas and nationwide, as applicable, as follows:

1. *Credit products and programs.* The Board evaluates the bank’s performance regarding its credit products and programs pursuant to § 228.23(c)(2) and determines whether the bank’s performance contributes positively to the bank’s Retail Services and Products Test conclusion that would have resulted based solely on the retail banking services conclusion pursuant to paragraph c.2.iv.A of this appendix.

2. *Deposit products.* The Board evaluates the bank’s performance regarding its deposit products pursuant to § 228.23(c)(3), as applicable, and determines whether the bank’s performance contributes positively to the bank’s Retail Services and Products Test conclusion that would have resulted based solely on the combined retail banking services conclusion pursuant to paragraph c.2.iv.A of this appendix.

3. *Impact of retail banking products on Retail Services and Products Test conclusion.* The bank’s retail banking products evaluated pursuant to § 228.23(c) may positively impact the bank’s Retail Services and Products Test conclusion. The bank’s lack of responsive retail banking products does not adversely affect the bank’s Retail Services and Products Test performance conclusion.

d. *Community Development Financing Test conclusions.* The Board assigns Community Development Financing Test conclusions for

each facility-based assessment area, each State or multistate MSA, as applicable pursuant to § 228.28(c), and for the institution.

1. *Facility-based assessment area.* For each facility-based assessment area, the Board assigns a Community Development Financing Test conclusion and corresponding performance score based on the metric and benchmarks as provided in § 228.24 and a review of the impact and responsiveness of a bank’s activities as provided in § 228.15 as follows:

Conclusion	Performance score
Outstanding	10
High Satisfactory	7
Low Satisfactory	6
Needs to Improve	3
Substantial Noncompliance	0

2. *State, multistate MSA, and institution.* The Board assigns Community Development Financing Test conclusions for a bank’s performance in each State and multistate MSA, as applicable pursuant to § 228.28(c), and for the institution as set forth in paragraph II.p of appendix B to this part.

e. *Community Development Services Test conclusions.* The Board assigns Community Development Services Test conclusions for each facility-based assessment area, each State or multistate MSA, as applicable pursuant to § 228.28(c), and for the institution.

1. *Facility-based assessment area.* For each facility-based assessment area, the Board develops a Community Development Services Test conclusion based on the extent to which a bank provided community development services, considering the factors in § 228.25(b). The Board translates the conclusion for each facility-based assessment area into a numerical performance score as follows:

Conclusion	Performance score
Outstanding	10
High Satisfactory	7
Low Satisfactory	6
Needs to Improve	3
Substantial Noncompliance	0

2. *State, multistate MSA, or nationwide area.* For each State or multistate MSA, as applicable pursuant to § 228.28(c), and the nationwide area, the Board develops a Community Development Services Test conclusion as follows:

i. The Board calculates a weighted average of the performance scores corresponding to the performance test conclusions pursuant to section IV of appendix B to this part. The resulting number is the Community Development Services Test performance score for a State, multistate MSA, or the institution. Subject to paragraph e.2.ii of this appendix, the Board assigns a Community Development Services Test conclusion corresponding

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to the conclusion category that is nearest to the performance score for the Community Development Services Test as follows:

Performance score for the community development services test	Conclusion
8.5 or more	Outstanding.
6.5 or more but less than 8.5	High Satisfactory.
4.5 or more but less than 6.5	Low Satisfactory.
1.5 or more but less than 4.5	Needs to Improve.
Less than 1.5	Substantial Noncompliance.

ii. The Board may adjust upwards the Community Development Services Test conclusion assigned under paragraph e.2.i of this appendix, based on Community Development Services Test activities performed outside of facility-based assessment areas as provided in §228.19. If there is no upward adjustment, the performance score used for the ratings calculations described in paragraph b.1 of appendix D to this part is the Community Development Services Test performance score discussed in paragraph e.2.i of this appendix. If there is an upward adjustment, the Board translates the Community Development Services Test conclusion into a numerical performance score, which will be used for the ratings calculations described in paragraph b.1 of appendix D to this part, as follows:

Conclusion	Performance score
Outstanding	10
High Satisfactory	7
Low Satisfactory	6
Needs to Improve	3
Substantial Noncompliance	0

f. *Community Development Financing Test for Limited Purpose Banks conclusions.* The Board assigns conclusions for each facility-based assessment area, each State or multistate MSA, as applicable pursuant to §228.28(c), and for the institution.

1. *Facility-based assessment area.* For each facility-based assessment area, the Board assigns one of the following Community Development Financing Test for Limited Purpose Banks conclusions based on consideration of the dollar volume of a bank’s community development loans and community development investments that benefit or serve the facility-based assessment area over the evaluation period, and a review of the impact and responsiveness of the bank’s activities in the facility-based assessment area as provided in §228.15: “Outstanding”; “High Satisfactory”; “Low Satisfactory”; “Needs to Improve”; or “Substantial Noncompliance.”

2. *State or multistate MSA.* For each State or multistate MSA, as applicable pursuant to §228.28(c), the Board assigns a Community Development Financing Test for Limited Purpose Banks conclusion of “Outstanding,” “High Satisfactory,” “Low Satisfactory,”

“Needs to Improve,” or “Substantial Noncompliance” based on the following:

- i. The bank’s facility-based assessment area performance test conclusions in each State or multistate MSA, as applicable;
- ii. The dollar volume of a bank’s community development loans and community development investments that benefit or serve the State or multistate MSAs, as applicable, over the evaluation period; and
- iii. A review of the impact and responsiveness of the bank’s activities in the State or multistate MSAs, as provided in §228.15.

3. *Institution.* For the institution, the Board assigns a Community Development Financing Test for Limited Purpose Banks conclusion of “Outstanding,” “High Satisfactory,” “Low Satisfactory,” “Needs to Improve,” or “Substantial Noncompliance” based on the following:

- i. The bank’s community development financing performance in all of its facility-based assessment areas;
- ii. The Board’s comparison of the bank’s Limited Purpose Bank Community Development Financing Metric to both the Nationwide Limited Purpose Bank Community Development Financing Benchmark and the Nationwide Asset-Based Community Development Financing Benchmark;
- iii. The Board’s comparison of the bank’s Limited Purpose Bank Community Development Investment Metric to the Nationwide Asset-Based Community Development Investment Benchmark; and
- iv. A review of the impact and responsiveness of the bank’s activities in a nationwide area as provided in §228.15.

g. *Strategic Plan conclusions.* The Board assigns conclusions for a bank that operates under an approved plan in facility-based assessment areas, retail lending assessment areas, outside retail lending areas, State or multistate MSA, as applicable pursuant to §228.28(c), and for the institution. The Board assigns conclusions consistent with the methodology set forth by the bank in its plan. For elements of the plan that correspond to performance tests that would apply to the bank in the absence of an approved plan, the plan should include a conclusion methodology that is generally consistent with paragraphs b through f of this appendix.

APPENDIX D TO PART 228—RATINGS

a. *Ratings, in general.* In assigning a rating, the Board evaluates a bank’s performance under the applicable performance criteria in this part, pursuant to §§228.21 and 228.28. The agency calculates an overall performance score for each State and multistate MSA, as applicable pursuant to §228.28(c), and for the institution. The Board assigns a rating of “Outstanding,” “Satisfactory,” “Needs to Improve,” or “Substantial Noncompliance”

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for the bank’s performance in each State and multistate MSA, as applicable pursuant to §228.28(c), and for the institution that is nearest to the overall performance score, as follows:

Performance score	Rating
8.5 or more	Outstanding.
4.5 or more but less than 8.5	Satisfactory.
1.5 or more but less than 4.5	Needs to Improve.
Less than 1.5	Substantial Noncompliance.

The Board also considers any evidence of discriminatory or other illegal credit practices pursuant to §228.28(d) and the bank’s past performance pursuant to §228.28(e).

b. *Large bank ratings at the State, multistate MSA, and institution levels.* Subject to paragraph g of this appendix, the Board combines a large bank’s performance scores for its State, multistate MSA, or institution-level performance under the Retail Lending Test in §228.22, Retail Services and Products Test in §228.23, Community Development Financing Test in §228.24, and Community Development Services Test in §228.25 to determine the bank’s rating in each State or multistate MSA, as applicable pursuant to §228.28(c), and for the institution.

1. The Board weights the performance scores as follows: Retail Lending Test (40 percent); Retail Services and Products Test (10 percent); Community Development Financing Test (40 percent); and Community Development Services Test (10 percent). The Board multiplies each of these weights by the bank’s performance score on the respective performance test, and then adds the resulting values together to develop a State, multistate MSA, or institution-level performance score.

2. The Board assigns a rating corresponding with the rating category that is nearest to the State, multistate MSA, or institution performance score using the table in paragraph a of this appendix.

Example D-1: A large bank received the following performance scores and conclusions in a State:

- On the Retail Lending Test, the bank received a 7.3 performance score and a corresponding conclusion of “High Satisfactory;”
- On the Retail Services and Products Test, the bank received a 6.0 performance score and a corresponding conclusion of “Low Satisfactory;”
- On the Community Development Financing Test, the bank received a 5.7 performance score and a corresponding conclusion of “Low Satisfactory;” and
- On the Community Development Services Test, the bank received a 3.0 performance score and a corresponding conclusion of “Needs to Improve.”

Calculating weights:

- For the Retail Lending Test, the weight is 40 percent (or 0.4);
- For the Retail Services and Products Test, the weight is 10 percent (or 0.1);
- For the Community Development Financing Test, the weight is 40 percent (or 0.4); and
- For the Community Development Services Test, the weight is 10 percent (or 0.1).

State Performance Score: Based on the illustration in this example D–1, the bank’s State performance score is 6.1.

$(0.4 \text{ weight} \times 7.3 \text{ performance score on the Retail Lending Test} = 2.92) + (0.1 \text{ weight} \times 6.0 \text{ performance score on the Retail Services and Products Test} = 0.6) + (0.4 \text{ weight} \times 5.7 \text{ performance score on the Community Development Financing Test} = 2.28) + (0.1 \text{ weight} \times 3.0 \text{ performance score on the Community Development Services Test} = 0.3).$

State Rating: A State performance score of 6.1 is greater than 4.5 but less than 8.5, resulting in a rating of “Satisfactory.”

c. *Intermediate bank ratings.* 1. *Intermediate banks evaluated pursuant to the Retail Lending Test and the Community Development Financing Test.* Subject to paragraph g of this appendix, the Board combines an intermediate bank’s performance scores for its State, multistate MSA, or institution performance under the Retail Lending Test and the Community Development Financing Test to determine the bank’s rating in each State or multistate MSA, as applicable pursuant to §228.28(c), and for the institution.

i. The Board weights the performance scores as follows: Retail Lending Test (50 percent) and Community Development Financing Test (50 percent). The Board multiplies each of these weights by the bank’s corresponding performance score on the respective performance test, and then adds the resulting values together to develop a State, multistate MSA, or institution performance score.

ii. The Board assigns a rating corresponding with the rating category that is nearest to the State, multistate MSA, or institution performance score, using the table in paragraph a of this appendix.

iii. The Board may adjust an intermediate bank’s institution rating where the bank has requested and received sufficient additional consideration pursuant to §228.30(b)(2) and (3).

2. *Intermediate banks evaluated pursuant to the Retail Lending Test and the Intermediate Bank Community Development Test in §228.30(a)(2).* The Board combines an intermediate bank’s performance scores for its State, multistate MSA, or institution conclusions under the Retail Lending Test and the Intermediate Bank Community Development Test in §228.30(a)(2) to determine the bank’s rating in each State or multistate

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MSA, as applicable pursuant to §228.28(c), and for the institution.

i. The Board weights the performance scores as follows: Retail Lending Test (50 percent) and Intermediate Bank Community Development Test (50 percent). The Board multiplies each of these weights by the bank’s corresponding performance score on the respective performance test, and then adds the resulting values together to develop a State, multistate MSA, or institution performance score. For purposes of this paragraph c.2.i, the performance score for the Intermediate Bank Community Development Test corresponds to the conclusion assigned, as follows:

Conclusion	Performance score
Outstanding	10
High Satisfactory	7
Low Satisfactory	6
Needs to Improve	3
Substantial Noncompliance	0

ii. The Board assigns a rating corresponding with the rating category that is nearest to the State, multistate MSA, or institution performance score using the table in paragraph a of this appendix.

iii. The Board may adjust an intermediate bank’s institution rating where the bank has requested and received sufficient additional consideration pursuant to §228.30(b)(1) and (3).

d. *Small bank ratings.* 1. *Ratings for small banks that opt to be evaluated pursuant to the Retail Lending Test in §228.22.* The Board determines a small bank’s rating for each State or multistate MSA, as applicable pursuant to §228.28(c), and for the institution based on the performance score for its Retail Lending Test conclusions for the State, multistate MSA or institution, respectively.

i. The Board assigns a rating corresponding with the rating category that is nearest to the State, multistate MSA, or institution performance score using the table in paragraph a of this appendix.

ii. The Board may adjust a small bank’s institution rating where the bank has requested and received sufficient additional consideration pursuant to §228.29(b)(2) and (3).

2. *Ratings for small banks evaluated under the Small Bank Lending Test pursuant to §228.29(a)(2).* The Board assigns a rating for small banks evaluated under the Small Bank Lending Test pursuant to §228.29(a)(2) as provided in appendix E to this part.

e. *Limited purpose banks.* The Board determines a limited purpose bank’s rating for each State or multistate MSA, as applicable pursuant to §228.28(c), and for the institution based on the performance score for its Community Development Financing Test for Limited Purpose Banks conclusion for the

State, multistate MSA, or the institution, respectively.

1. The Board assigns a rating corresponding with the rating category that is nearest to the State, multistate MSA, or institution performance score, respectively, using the table in paragraph a of this appendix.

2. The Board may adjust a limited purpose bank’s institution rating where the bank has requested and received sufficient additional consideration pursuant to §228.26(b)(2).

f. *Ratings for banks operating under an approved strategic plan.* The Board evaluates the performance of a bank operating under an approved plan consistent with the rating methodology that is specified in the plan pursuant to §228.27(g)(6). The Board assigns a rating according to the category assigned under the rating methodology specified in the plan: “Outstanding,” “Satisfactory,” “Needs to Improve,” or “Substantial Non-compliance.”

g. *Minimum performance test conclusion requirements.* 1. *Retail Lending Test minimum conclusion.* An intermediate bank or a large bank must receive at least a “Low Satisfactory” Retail Lending Test conclusion at, respectively, the State, multistate MSA, or institution level to receive an overall State, multistate MSA, or institution rating of “Satisfactory” or “Outstanding.”

2. *Minimum of “low satisfactory” overall conclusion for 60 percent of facility-based assessment areas and retail lending assessment areas.*

i. Except as provided in §228.51(e), a large bank with a combined total of 10 or more facility-based assessment areas and retail lending assessment areas in any State, multistate MSA, or for the institution, as applicable, may not receive a rating of “Satisfactory” or “Outstanding” in that State, multistate MSA, or for the institution unless the bank received an overall conclusion of at least “Low Satisfactory” in 60 percent or more of the total number of its facility-based assessment areas and retail lending assessment areas in that State or multistate MSA or for the institution, as applicable.

ii. *Overall conclusion in facility-based assessment areas and retail lending assessment areas.* For purposes of the requirement in paragraph g.2 of this appendix:

A. The Board calculates an overall conclusion in a facility-based assessment area by combining a large bank’s performance scores for its conclusions in the facility-based assessment area pursuant to the Retail Lending Test in §228.22, Retail Services and Products Test in §228.23, Community Development Financing Test in §228.24, and Community Development Services Test in §228.25.

The Board weights the performance scores as follows: Retail Lending Test (40 percent); Retail Services and Products Test (10 percent); Community Development Financing

Test (40 percent); and Community Development Services Test (10 percent). The Board multiplies each of these weights by the bank’s performance score on the respective performance test, and then adds the resulting values together to develop a facility-based assessment area performance score.

The Board assigns a conclusion corresponding with the conclusion category that is nearest to the performance score, as follows:

Performance score	Conclusion
8.5 or more	Outstanding.
6.5 or more but less than 8.5	High Satisfactory.
4.5 or more but less than 6.5	Low Satisfactory.
1.5 or more but less than 4.5	Needs to Improve.
Less than 1.5	Substantial Noncompliance.

B. An overall conclusion in a retail lending assessment area is the retail lending assessment area conclusion assigned pursuant to the Retail Lending Test in §228.22 as provided in appendix C to this part.

APPENDIX E TO PART 228—SMALL BANK AND INTERMEDIATE BANK PERFORMANCE EVALUATION CONCLUSIONS AND RATINGS

a. *Small banks evaluated under the small bank performance evaluation.* 1. *Small Bank Lending Test conclusions.* Unless a small bank opts to be evaluated pursuant to the Retail Lending Test in §228.22, the Board assigns conclusions for a small bank’s performance pursuant to the Small Bank Lending Test in §228.29(a)(2) for each facility-based assessment area, in each State or multistate MSA, as applicable pursuant to §228.28(c), and for the institution of “Outstanding,” “Satisfactory,” “Needs to Improve,” or “Substantial Noncompliance.”

i. *Eligibility for a “Satisfactory” Small Bank Lending Test conclusion.* The Board assigns a small bank’s performance pursuant to the Small Bank Lending Test a conclusion of “Satisfactory” if, in general, the bank demonstrates:

A. A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank’s size, financial condition, the credit needs of its facility-based assessment areas, and taking into account, as appropriate, other lending-related activities such as loan originations for sale to the secondary markets, community development loans, and community development investments;

B. A majority of its loans and, as appropriate, other lending-related activities, are in its facility-based assessment areas;

C. A distribution of retail lending to and, as appropriate, other lending-related activities for individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes that is reasonable given the de-

mographics of the bank’s facility-based assessment areas;

D. A reasonable geographic distribution of loans among census tracts of different income levels in the bank’s facility-based assessment areas; and

E. A record of taking appropriate action, when warranted, in response to written complaints, if any, about the bank’s performance in helping to meet the credit needs of its facility-based assessment areas.

ii. *Eligibility for an “Outstanding” Small Bank Lending Test conclusion.* A small bank that meets each of the standards for a “Satisfactory” conclusion under this paragraph a.1.ii. and exceeds some or all of those standards may warrant consideration for a lending evaluation conclusion of “Outstanding.”

iii. *“Needs to Improve” or “Substantial Noncompliance” Small Bank Lending Test conclusions.* A small bank may also receive a lending evaluation conclusion of “Needs to Improve” or “Substantial Noncompliance” depending on the degree to which its performance has failed to meet the standard for a “Satisfactory” conclusion.

2. *Small bank ratings.* Unless a small bank opts to be evaluated pursuant to the Retail Lending Test in §228.22, the Board determines a small bank’s rating for each State and multistate MSA, as applicable pursuant to §228.28(c), and for the institution based on its Small Bank Lending Test conclusions at the State, multistate MSA, and institution level, respectively.

i. The Board assigns a rating based on the lending evaluation conclusion according to the category of the conclusion assigned: “Outstanding,” “Satisfactory,” “Needs to Improve,” or “Substantial Noncompliance.”

ii. The Board may adjust a small bank’s institution rating where the bank has requested and received sufficient additional consideration pursuant to §228.29(b)(1) and (3).

iii. The Board also considers any evidence of discriminatory or other illegal credit practices pursuant to §228.28(d) and the bank’s past performance pursuant to §228.28(e).

3. The Board assigns a rating for small banks evaluated pursuant to the Retail Lending Test in §228.22 as provided in appendix D to this part.

b. *Intermediate banks evaluated pursuant to the Intermediate Bank Community Development Test in §228.30.* Unless an intermediate bank opts to be evaluated pursuant to the Community Development Financing Test in §228.24, the Board assigns conclusions for an intermediate bank’s performance pursuant to the Intermediate Bank Community Development Test in §228.30 for each State and multistate MSA, as applicable pursuant to §228.28(c), and for the institution of “Outstanding,” “High Satisfactory,” “Low Satisfactory,”

“Needs to Improve,” or “Substantial Non-compliance.”

1. *Intermediate Bank Community Development Test conclusions.* i. *Eligibility for a “Satisfactory” Intermediate Bank Community Development Test conclusion.* The Board assigns an intermediate bank’s community development performance a “Low Satisfactory” conclusion if the bank demonstrates adequate responsiveness, and a “High Satisfactory” conclusion if the bank demonstrates good responsiveness, to the community development needs of its facility-based assessment areas and, as applicable, nationwide area through community development loans, community development investments, and community development services. The adequacy of the bank’s response will depend on its capacity for such community development activities, the need for such community development activities, and the availability of community development opportunities.

ii. *Eligibility for an “Outstanding” Intermediate Bank Community Development Test conclusion.* The Board assigns an intermediate bank’s community development performance an “Outstanding” conclusion if the bank demonstrates excellent responsiveness to community development needs in its facility-based assessment areas and, as applicable, nationwide area through community development loans, community development investments, and community development services. The adequacy of the bank’s response will depend on its capacity for such community development activities, the need for such community development activities, and the availability of community development opportunities.

iii. *“Needs to Improve” or “Substantial Non-compliance” Intermediate Bank Community Development Test conclusions.* The Board assigns an intermediate bank’s community development performance a “Needs to Improve” or “Substantial Noncompliance” conclusion depending on the degree to which its performance has failed to meet the standards for a “Satisfactory” conclusion.

2. *Intermediate bank ratings.* The Board rates an intermediate bank’s performance as provided in appendix D to this part.

APPENDIX F TO PART 228—CRA NOTICE

(a) Notice for main offices and, if an interstate bank, one branch office in each State.

COMMUNITY REINVESTMENT ACT NOTICE

Under the Federal Community Reinvestment Act (CRA), the Federal Reserve Board (Board) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Board also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent CRA Performance Evaluation, prepared by the Federal Reserve Bank of _____ (Reserve Bank); and comments received from the public relating to our performance in helping to meet community credit needs, as well as our responses to those comments. You may review this information today.

At least 30 days before the beginning of each calendar quarter, the Federal Reserve System publishes a list of the banks that are scheduled for CRA examination by the Reserve Bank for the next two quarters. This list is available from (title of responsible official), Federal Reserve Bank of _____ (address), or through the Board’s website at <https://www.federalreserve.gov>.

You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and (title of responsible official), Federal Reserve Bank of _____ (address), or through the Board’s website at <https://www.federalreserve.gov>. Your letter, together with any response by us, will be considered by the Federal Reserve System in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Reserve Bank. You may also request from the Reserve Bank an announcement of our applications covered by the CRA filed with the Reserve Bank. [We are an affiliate of (name of holding company), a bank holding company. You may request from (title of responsible official), Federal Reserve Bank of _____ (address) an announcement of applications covered by the CRA filed by bank holding companies.]

(b) Notice for branch offices.

COMMUNITY REINVESTMENT ACT NOTICE

Under the Federal Community Reinvestment Act (CRA), the Federal Reserve Board (Board) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Board also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA. You may review today the public section of our most recent CRA evaluation, prepared by the Federal Reserve Bank of _____ (address), and a list of services provided at this branch. You may also have access to the following additional information, which we will make available to you at this branch within five calendar days

after you make a request to us: (1) a map showing the assessment area containing this branch, which is the area in which the Board evaluates our CRA performance in this community; (2) information about our branches in this assessment area; (3) a list of services we provide at those locations; (4) data on our lending performance in this assessment area; and (5) copies of all written comments received by us that specifically relate to our CRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

[If you would like to review information about our CRA performance in other communities served by us, the public file for our entire bank is available at (name of office located in state), located at (address).]

At least 30 days before the beginning of each calendar quarter, the Federal Reserve System publishes a list of the banks that are scheduled for CRA examination by the Reserve Bank for the next two quarters. This list is available from (title of responsible official), Federal Reserve Bank of _____ (address), or through the Board's website at <https://www.federalreserve.gov>.

You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and (title of responsible official), Federal Reserve Bank of _____ (address), or through the Board's website at <https://www.federalreserve.gov>. Your letter, together with any response by us, will be considered by the Federal Reserve System in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Reserve Bank. You may also request from the Reserve Bank an announcement of our applications covered by the CRA filed with the Reserve Bank. [We are an affiliate of (name of holding company), a bank holding company. You may request from (title of responsible official), Federal Reserve Bank of _____ (address) an announcement of applications covered by the CRA filed by bank holding companies.]

APPENDIX G TO PART 228—COMMUNITY REINVESTMENT ACT (REGULATION BB)

NOTE: The content of this appendix reproduces part 228 implementing the Community Reinvestment Act as of March 31, 2024. Cross-references to CFR parts (as well as to included sections, subparts, and appendices) in this appendix are to those provisions as contained within this appendix and the CFR as of March 31, 2024.

Subpart A—General

§ 228.11 Authority, purposes, and scope.

(a) *Authority.* The Board of Governors of the Federal Reserve System (the Board) issues this part to implement the Community Reinvestment Act (12 U.S.C. 2901 *et seq.*) (CRA). The regulations comprising this part are issued under the authority of the CRA and under the provisions of the United States Code authorizing the Board:

(1) To conduct examinations of State-chartered banks that are members of the Federal Reserve System (12 U.S.C. 325);

(2) To conduct examinations of bank holding companies and their subsidiaries (12 U.S.C. 1844) and savings and loan holding companies and their subsidiaries (12 U.S.C. 1467a); and (3) To consider applications for:

(i) Domestic branches by State member banks (12 U.S.C. 321);

(ii) Mergers in which the resulting bank would be a State member bank (12 U.S.C. 1828(c));

(iii) Formations of, acquisitions of banks by, and mergers of, bank holding companies (12 U.S.C. 1842);

(iv) The acquisition of savings associations by bank holding companies (12 U.S.C. 1843); and

(v) Formations of, acquisitions of savings associations by, conversions of, and mergers of, savings and loan holding companies (12 U.S.C. 1467a).

(b) *Purposes.* In enacting the CRA, the Congress required each appropriate Federal financial supervisory agency to assess an institution's record of helping to meet the credit needs of the local communities in which the institution is chartered, consistent with the safe and sound operation of the institution, and to take this record into account in the agency's evaluation of an application for a deposit facility by the institution. This part is intended to carry out the purposes of the CRA by:

(1) Establishing the framework and criteria by which the Board assesses a bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank; and

(2) Providing that the Board takes that record into account in considering certain applications.

(c) *Scope—(1) General.* This part applies to all banks except as provided in paragraph (c)(3) of this section.

(2) *Foreign bank acquisitions.* This part also applies to an uninsured State branch (other than a limited branch) of a foreign bank that results from an acquisition described in section 5(a)(8) of the International Banking Act of 1978 (12 U.S.C. 3103(a)(8)). The terms "State branch" and "foreign bank" have the same meanings as in section 1(b) of the International Banking Act of 1978 (12 U.S.C. 3101 *et seq.*); the term "uninsured State branch" means a State branch the deposits

of which are not insured by the Federal Deposit Insurance Corporation; the term "limited branch" means a State branch that accepts only deposits that are permissible for a corporation organized under section 25A of the Federal Reserve Act (12 U.S.C. 611 *et seq.*).

(3) *Certain special purpose banks.* This part does not apply to special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations. These banks include banker's banks, as defined in 12 U.S.C. 24(Seventh), and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust companies, or clearing agents.

§228.12 Definitions.

For purposes of this part, the following definitions apply:

(a) *Affiliate* means any company that controls, is controlled by, or is under common control with another company. The term "control" has the meaning given to that term in 12 U.S.C. 1841(a)(2), and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.

(b) *Area median income* means:

(1) The median family income for the MSA, if a person or geography is located in an MSA, or for the metropolitan division, if a person or geography is located in an MSA that has been subdivided into metropolitan divisions; or

(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.

(c) *Assessment area* means a geographic area delineated in accordance with §228.41.

(d) *Automated teller machine (ATM)* means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank at which deposits are received, cash dispersed, or money lent.

(e) *Bank* means a State member bank as that term is defined in section 3(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(d)(2)), except as provided in §228.11(c)(3), and includes an uninsured State branch (other than a limited branch) of a foreign bank described in §228.11(c)(2).

(f) *Branch* means a staffed banking facility approved as a branch, whether shared or unshared, including, for example, a mini-branch in a grocery store or a branch operated in conjunction with any other local business or nonprofit organization.

(g) *Community development* means:

(1) Affordable housing (including multifamily rental housing) for low- or moderate-income individuals;

(2) Community services targeted to low- or moderate-income individuals;

(3) Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration's Development Company or Small Business Investment Company programs (13 CFR 121.301) or have gross annual revenues of \$1 million or less; or

(4) Activities that revitalize or stabilize—

(i) Low- or moderate-income geographies;

(ii) Designated disaster areas; or

(iii) Distressed or underserved nonmetropolitan middle-income geographies designated by the Board, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency, based on—

(A) Rates of poverty, unemployment, and population loss; or

(B) Population size, density, and dispersion. Activities revitalize and stabilize geographies designated based on population size, density, and dispersion if they help to meet essential community needs, including needs of low- and moderate-income individuals.

(h) *Community development loan* means a loan that:

(1) Has as its primary purpose community development; and

(2) Except in the case of a wholesale or limited purpose bank:

(i) Has not been reported or collected by the bank or an affiliate for consideration in the bank's assessment as a home mortgage, small business, small farm, or consumer loan, unless the loan is for a multifamily dwelling (as defined in §1003.2(n) of this title); and

(ii) Benefits the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(i) *Community development service* means a service that:

(1) Has as its primary purpose community development;

(2) Is related to the provision of financial services; and

(3) Has not been considered in the evaluation of the bank's retail banking services under §228.24(d).

(j) *Consumer loan* means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. Consumer loans include the following categories of loans:

(1) *Motor vehicle loan*, which is a consumer loan extended for the purchase of and secured by a motor vehicle;

(2) *Credit card loan*, which is a line of credit for household, family, or other personal expenditures that is accessed by a borrower's use of a "credit card," as this term is defined in §1026.2 of this chapter;

(3) *Other secured consumer loan*, which is a secured consumer loan that is not included in one of the other categories of consumer loans; and

(4) *Other unsecured consumer loan*, which is an unsecured consumer loan that is not included in one of the other categories of consumer loans.

(k) *Geography* means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.

(l) *Home mortgage loan* means a closed-end mortgage loan or an open-end line of credit as these terms are defined under §1003.2 of this title and that is not an excluded transaction under §1003.3(c)(1) through (10) and (13) of this title.

(m) *Income level* includes:

(1) *Low-income*, which means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a geography.

(2) *Moderate-income*, which means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 and less than 80 percent, in the case of a geography.

(3) *Middle-income*, which means an individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 and less than 120 percent, in the case of a geography.

(4) *Upper-income*, which means an individual income that is 120 percent or more of the area median income, or a median family income that is 120 percent or more, in the case of a geography.

(n) *Limited purpose bank* means a bank that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited purpose bank is in effect, in accordance with §228.25(b).

(o) *Loan location*. A loan is located as follows:

(1) A consumer loan is located in the geography where the borrower resides;

(2) A home mortgage loan is located in the geography where the property to which the loan relates is located; and

(3) A small business or small farm loan is located in the geography where the main business facility or farm is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.

(p) *Loan production office* means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.

(q) *Metropolitan division* means a metropolitan division as defined by the Director of the Office of Management and Budget.

(r) *MSA* means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.

(s) *Nonmetropolitan area* means any area that is not located in an MSA.

(t) *Qualified investment* means a lawful investment, deposit, membership share, or grant that has as its primary purpose community development.

(u) *Small bank*—(1) *Definition*. *Small bank* means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.564 billion. *Intermediate small bank* means a small bank with assets of at least \$391 million as of December 31 of both of the prior two calendar years and less than \$1.564 billion as of December 31 of either of the prior two calendar years.

(2) *Adjustment*. The dollar figures in paragraph (u)(1) of this section shall be adjusted annually and published by the Board, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million.

(v) *Small business loan* means a loan included in “loans to small businesses” as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(w) *Small farm loan* means a loan included in “loans to small farms” as defined in the instructions for preparation of the Consolidated Report of Condition and Income.

(x) *Wholesale bank* means a bank that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale bank is in effect, in accordance with §228.25(b).

Subpart B—Standards for Assessing Performance

§228.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards*. The Board assesses the CRA performance of a bank in an examination as follows:

(1) *Lending, investment, and service tests*. The Board applies the lending, investment, and service tests, as provided in §§228.22 through 228.24, in evaluating the performance of a bank, except as provided in paragraphs (a)(2), (a)(3), and (a)(4) of this section.

(2) *Community development test for wholesale or limited purpose banks*. The Board applies the community development test for a wholesale or limited purpose bank, as provided in §228.25, except as provided in paragraph (a)(4) of this section.

(3) *Small bank performance standards*. The Board applies the small bank performance standards as provided in §228.26 in evaluating the performance of a small bank or a bank

that was a small bank during the prior calendar year, unless the bank elects to be assessed as provided in paragraphs (a)(1), (a)(2), or (a)(4) of this section. The bank may elect to be assessed as provided in paragraph (a)(1) of this section only if it collects and reports the data required for other banks under § 228.42.

(4) *Strategic plan.* The Board evaluates the performance of a bank under a strategic plan if the bank submits, and the Board approves, a strategic plan as provided in § 228.27.

(b) *Performance context.* The Board applies the tests and standards in paragraph (a) of this section and also considers whether to approve a proposed strategic plan in the context of:

(1) Demographic data on median income levels, distribution of household income, nature of housing stock, housing costs, and other relevant data pertaining to a bank's assessment area(s);

(2) Any information about lending, investment, and service opportunities in the bank's assessment area(s) maintained by the bank or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

(3) The bank's product offerings and business strategy as determined from data provided by the bank;

(4) Institutional capacity and constraints, including the size and financial condition of the bank, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the bank's ability to provide lending, investments, or services in its assessment area(s);

(5) The bank's past performance and the performance of similarly situated lenders;

(6) The bank's public file, as described in § 228.43, and any written comments about the bank's CRA performance submitted to the bank or the Board; and

(7) Any other information deemed relevant by the Board.

(c) *Assigned ratings.* The Board assigns to a bank one of the following four ratings pursuant to § 228.28 and appendix A of this part: "outstanding"; "satisfactory"; "needs to improve"; or "substantial noncompliance" as provided in 12 U.S.C. 2906(b)(2). The rating assigned by the Board reflects the bank's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with the safe and sound operation of the bank.

(d) *Safe and sound operations.* This part and the CRA do not require a bank to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the Board anticipates banks can meet the standards of this part with safe and sound loans, investments,

and services on which the banks expect to make a profit. Banks are permitted and encouraged to develop and apply flexible underwriting standards for loans that benefit low- or moderate-income geographies or individuals, only if consistent with safe and sound operations.

(e) *Low-cost education loans provided to low-income borrowers.* In assessing and taking into account the record of a bank under this part, the Board considers, as a factor, low-cost education loans originated by the bank to borrowers, particularly in its assessment area(s), who have an individual income that is less than 50 percent of the area median income. For purposes of this paragraph, "low-cost education loans" means any education loan, as defined in section 140(a)(7) of the Truth in Lending Act (15 U.S.C. 1650(a)(7)) (including a loan under a state or local education loan program), originated by the bank for a student at an "institution of higher education," as that term is generally defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002) and the implementing regulations published by the U.S. Department of Education, with interest rates and fees no greater than those of comparable education loans offered directly by the U.S. Department of Education. Such rates and fees are specified in section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e).

(f) *Activities in cooperation with minority- or women-owned financial institutions and low-income credit unions.* In assessing and taking into account the record of a nonminority-owned and nonwomen-owned bank under this part, the Board considers as a factor capital investment, loan participation, and other ventures undertaken by the bank in cooperation with minority- and women-owned financial institutions and low-income credit unions. Such activities must help meet the credit needs of local communities in which the minority- and women-owned financial institutions and low-income credit unions are chartered. To be considered, such activities need not also benefit the bank's assessment area(s) or the broader statewide or regional area that includes the bank's assessment area(s).

§ 228.22 Lending test.

(a) *Scope of test.* (1) The lending test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering a bank's home mortgage, small business, small farm, and community development lending. If consumer lending constitutes a substantial majority of a bank's business, the Board will evaluate the bank's consumer lending in one or more of the following categories: motor vehicle, credit card, other secured, and other unsecured loans. In addition, at a bank's option, the Board will

evaluate one or more categories of consumer lending, if the bank has collected and maintained, as required in §228.42(c)(1), the data for each category that the bank elects to have the Board evaluate.

(2) The Board considers originations and purchases of loans. The Board will also consider any other loan data the bank may choose to provide, including data on loans outstanding, commitments and letters of credit.

(3) A bank may ask the Board to consider loans originated or purchased by consortia in which the bank participates or by third parties in which the bank has invested only if the loans meet the definition of community development loans and only in accordance with paragraph (d) of this section. The Board will not consider these loans under any criterion of the lending test except the community development lending criterion.

(b) *Performance criteria.* The Board evaluates a bank's lending performance pursuant to the following criteria:

(1) *Lending activity.* The number and amount of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, in the bank's assessment area(s);

(2) *Geographic distribution.* The geographic distribution of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on the loan location, including:

(i) The proportion of the bank's lending in the bank's assessment area(s);

(ii) The dispersion of lending in the bank's assessment area(s); and

(iii) The number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the bank's assessment area(s);

(3) *Borrower characteristics.* The distribution, particularly in the bank's assessment area(s), of the bank's home mortgage, small business, small farm, and consumer loans, if applicable, based on borrower characteristics, including the number and amount of:

(i) Home mortgage loans to low-, moderate-, middle-, and upper-income individuals;

(ii) Small business and small farm loans to businesses and farms with gross annual revenues of \$1 million or less;

(iii) Small business and small farm loans by loan amount at origination; and (iv) Consumer loans, if applicable, to low-, moderate-, middle-, and upper-income individuals;

(4) *Community development lending.* The bank's community development lending, including the number and amount of community development loans, and their complexity and innovativeness; and

(5) *Innovative or flexible lending practices.* The bank's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies.

(c) *Affiliate lending.* (1) At a bank's option, the Board will consider loans by an affiliate of the bank, if the bank provides data on the affiliate's loans pursuant to §228.42.

(2) The Board considers affiliate lending subject to the following constraints:

(i) No affiliate may claim a loan origination or loan purchase if another institution claims the same loan origination or purchase; and

(ii) If a bank elects to have the Board consider loans within a particular lending category made by one or more of the bank's affiliates in a particular assessment area, the bank shall elect to have the Board consider, in accordance with paragraph (c)(1) of this section, all the loans within that lending category in that particular assessment area made by all of the bank's affiliates.

(3) The Board does not consider affiliate lending in assessing a bank's performance under paragraph (b)(2)(i) of this section.

(d) *Lending by a consortium or a third party.* Community development loans originated or purchased by a consortium in which the bank participates or by a third party in which the bank has invested:

(1) Will be considered, at the bank's option, if the bank reports the data pertaining to these loans under §228.42(b)(2); and

(2) May be allocated among participants or investors, as they choose, for purposes of the lending test, except that no participant or investor:

(i) May claim a loan origination or loan purchase if another participant or investor claims the same loan origination or purchase; or

(ii) May claim loans accounting for more than its percentage share (based on the level of its participation or investment) of the total loans originated by the consortium or third party.

(e) *Lending performance rating.* The Board rates a bank's lending performance as provided in appendix A of this part.

§ 228.23 Investment test.

(a) *Scope of test.* The investment test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) through qualified investments that benefit its assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(b) *Exclusion.* Activities considered under the lending or service tests may not be considered under the investment test.

(c) *Affiliate investment.* At a bank's option, the Board will consider, in its assessment of a bank's investment performance, a qualified investment made by an affiliate of the bank, if the qualified investment is not claimed by any other institution.

(d) *Disposition of branch premises.* Donating, selling on favorable terms, or making available on a rent-free basis a branch of the bank

that is located in a predominantly minority neighborhood to a minority depository institution or women's depository institution (as these terms are defined in 12 U.S.C. 2907(b)) will be considered as a qualified investment.

(e) *Performance criteria.* The Board evaluates the investment performance of a bank pursuant to the following criteria:

- (1) The dollar amount of qualified investments;
- (2) The innovativeness or complexity of qualified investments;
- (3) The responsiveness of qualified investments to credit and community development needs; and
- (4) The degree to which the qualified investments are not routinely provided by private investors.

(f) *Investment performance rating.* The Board rates a bank's investment performance as provided in appendix A of this part.

§ 228.24 Service test.

(a) *Scope of test.* The service test evaluates a bank's record of helping to meet the credit needs of its assessment area(s) by analyzing both the availability and effectiveness of a bank's systems for delivering retail banking services and the extent and innovativeness of its community development services.

(b) *Area(s) benefitted.* Community development services must benefit a bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(c) *Affiliate service.* At a bank's option, the Board will consider, in its assessment of a bank's service performance, a community development service provided by an affiliate of the bank, if the community development service is not claimed by any other institution.

(d) *Performance criteria—retail banking services.* The Board evaluates the availability and effectiveness of a bank's systems for delivering retail banking services, pursuant to the following criteria:

- (1) The current distribution of the bank's branches among low-, moderate-, middle-, and upper-income geographies;
- (2) In the context of its current distribution of the bank's branches, the bank's record of opening and closing branches, particularly branches located in low- or moderate-income geographies or primarily serving low- or moderate-income individuals;
- (3) The availability and effectiveness of alternative systems for delivering retail banking services (e.g., ATMs, ATMs not owned or operated by or exclusively for the bank, banking by telephone or computer, loan production offices, and bank-at-work or bank-by-mail programs) in low- and moderate-income geographies and to low- and moderate-income individuals; and
- (4) The range of services provided in low-, moderate-, middle-, and upper-income geog-

raphies and the degree to which the services are tailored to meet the needs of those geographies.

(e) *Performance criteria—community development services.* The Board evaluates community development services pursuant to the following criteria:

- (1) The extent to which the bank provides community development services; and
- (2) The innovativeness and responsiveness of community development services.

(f) *Service performance rating.* The Board rates a bank's service performance as provided in appendix A of this part.

§ 228.25 Community development test for wholesale or limited purpose banks.

(a) *Scope of test.* The Board assesses a wholesale or limited purpose bank's record of helping to meet the credit needs of its assessment area(s) under the community development test through its community development lending, qualified investments, or community development services.

(b) *Designation as a wholesale or limited purpose bank.* In order to receive a designation as a wholesale or limited purpose bank, a bank shall file a request, in writing, with the Board, at least three months prior to the proposed effective date of the designation. If the Board approves the designation, it remains in effect until the bank requests revocation of the designation or until one year after the Board notifies the bank that the Board has revoked the designation on its own initiative.

(c) *Performance criteria.* The Board evaluates the community development performance of a wholesale or limited purpose bank pursuant to the following criteria:

- (1) The number and amount of community development loans (including originations and purchases of loans and other community development loan data provided by the bank, such as data on loans outstanding, commitments, and letters of credit), qualified investments, or community development services;
- (2) The use of innovative or complex qualified investments, community development loans, or community development services and the extent to which the investments are not routinely provided by private investors; and
- (3) The bank's responsiveness to credit and community development needs.

(d) *Indirect activities.* At a bank's option, the Board will consider in its community development performance assessment:

- (1) Qualified investments or community development services provided by an affiliate of the bank, if the investments or services are not claimed by any other institution; and
- (2) Community development lending by affiliates, consortia and third parties, subject

to the requirements and limitations in § 228.22(c) and (d).

(e) *Benefit to assessment area(s)*—(1) *Benefit inside assessment area(s)*. The Board considers all qualified investments, community development loans, and community development services that benefit areas within the bank's assessment area(s) or a broader statewide or regional area that includes the bank's assessment area(s).

(2) *Benefit outside assessment area(s)*. The Board considers the qualified investments, community development loans, and community development services that benefit areas outside the bank's assessment area(s), if the bank has adequately addressed the needs of its assessment area(s).

(f) *Community development performance rating*. The Board rates a bank's community development performance as provided in appendix A of this part.

§ 228.26 Small bank performance standards.

(a) *Performance criteria*—(1) *Small banks that are not intermediate small banks*. The Board evaluates the record of a small bank that is not, or that was not during the prior calendar year, an intermediate small bank, of helping to meet the credit needs of its assessment area(s) pursuant to the criteria set forth in paragraph (b) of this section.

(2) *Intermediate small banks*. The Board evaluates the record of a small bank that is, or that was during the prior calendar year, an intermediate small bank, of helping to meet the credit needs of its assessment area(s) pursuant to the criteria set forth in paragraphs (b) and (c) of this section.

(b) *Lending test*. A small bank's lending performance is evaluated pursuant to the following criteria:

(1) The bank's loan-to-deposit ratio, adjusted for seasonal variation, and, as appropriate, other lending-related activities, such as loan originations for sale to the secondary markets, community development loans, or qualified investments;

(2) The percentage of loans and, as appropriate, other lending-related activities located in the bank's assessment area(s);

(3) The bank's record of lending to and, as appropriate, engaging in other lending-related activities for borrowers of different income levels and businesses and farms of different sizes;

(4) The geographic distribution of the bank's loans; and

(5) The bank's record of taking action, if warranted, in response to written complaints about its performance in helping to meet credit needs in its assessment area(s).

(c) *Community development test*. An intermediate small bank's community development performance also is evaluated pursuant to the following criteria:

(1) The number and amount of community development loans;

(2) The number and amount of qualified investments;

(3) The extent to which the bank provides community development services; and

(4) The bank's responsiveness through such activities to community development lending, investment, and services needs.

(d) *Small bank performance rating*. The Board rates the performance of a bank evaluated under this section as provided in appendix A of this part.

§ 228.27 Strategic plan.

(a) *Alternative election*. The Board will assess a bank's record of helping to meet the credit needs of its assessment area(s) under a strategic plan if:

(1) The bank has submitted the plan to the Board as provided for in this section;

(2) The Board has approved the plan;

(3) The plan is in effect; and

(4) The bank has been operating under an approved plan for at least one year.

(b) *Data reporting*. The Board's approval of a plan does not affect the bank's obligation, if any, to report data as required by § 228.42.

(c) *Plans in general*—(1) *Term*. A plan may have a term of no more than five years, and any multi-year plan must include annual interim measurable goals under which the Board will evaluate the bank's performance.

(2) *Multiple assessment areas*. A bank with more than one assessment area may prepare a single plan for all of its assessment areas or one or more plans for one or more of its assessment areas.

(3) *Treatment of affiliates*. Affiliated institutions may prepare a joint plan if the plan provides measurable goals for each institution. Activities may be allocated among institutions at the institutions' option, provided that the same activities are not considered for more than one institution.

(d) *Public participation in plan development*. Before submitting a plan to the Board for approval, a bank shall:

(1) Informally seek suggestions from members of the public in its assessment area(s) covered by the plan while developing the plan;

(2) Once the bank has developed a plan, formally solicit public comment on the plan for at least 30 days by publishing notice in at least one newspaper of general circulation in each assessment area covered by the plan; and

(3) During the period of formal public comment, make copies of the plan available for review by the public at no cost at all offices of the bank in any assessment area covered by the plan and provide copies of the plan upon request for a reasonable fee to cover copying and mailing, if applicable.

(e) *Submission of plan*. The bank shall submit its plan to the Board at least three

months prior to the proposed effective date of the plan. The bank shall also submit with its plan a description of its informal efforts to seek suggestions from members of the public, any written public comment received, and, if the plan was revised in light of the comment received, the initial plan as released for public comment.

(f) *Plan content*—(1) *Measurable goals.* (i) A bank shall specify in its plan measurable goals for helping to meet the credit needs of each assessment area covered by the plan, particularly the needs of low- and moderate-income geographies and low- and moderate-income individuals, through lending, investment, and services, as appropriate.

(ii) A bank shall address in its plan all three performance categories and, unless the bank has been designated as a wholesale or limited purpose bank, shall emphasize lending and lending-related activities. Nevertheless, a different emphasis, including a focus on one or more performance categories, may be appropriate if responsive to the characteristics and credit needs of its assessment area(s), considering public comment and the bank's capacity and constraints, product offerings, and business strategy.

(2) *Confidential information.* A bank may submit additional information to the Board on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the Board to judge the merits of the plan.

(3) *Satisfactory and outstanding goals.* A bank shall specify in its plan measurable goals that constitute "satisfactory" performance. A plan may specify measurable goals that constitute "outstanding" performance. If a bank submits, and the Board approves, both "satisfactory" and "outstanding" performance goals, the Board will consider the bank eligible for an "outstanding" performance rating.

(4) *Election if satisfactory goals not substantially met.* A bank may elect in its plan that, if the bank fails to meet substantially its plan goals for a satisfactory rating, the Board will evaluate the bank's performance under the lending, investment, and service tests, the community development test, or the small bank performance standards, as appropriate.

(g) *Plan approval*—(1) *Timing.* The Board will act upon a plan within 60 calendar days after the Board receives the complete plan and other material required under paragraph (e) of this section. If the Board fails to act within this time period, the plan shall be deemed approved unless the Board extends the review period for good cause.

(2) *Public participation.* In evaluating the plan's goals, the Board considers the public's involvement in formulating the plan, written public comment on the plan, and any response by the bank to public comment on the plan.

(3) *Criteria for evaluating plan.* The Board evaluates a plan's measurable goals using the following criteria, as appropriate:

(i) The extent and breadth of lending or lending-related activities, including, as appropriate, the distribution of loans among different geographies, businesses and farms of different sizes, and individuals of different income levels, the extent of community development lending, and the use of innovative or flexible lending practices to address credit needs;

(ii) The amount and innovativeness, complexity, and responsiveness of the bank's qualified investments; and

(iii) The availability and effectiveness of the bank's systems for delivering retail banking services and the extent and innovativeness of the bank's community development services.

(h) *Plan amendment.* During the term of a plan, a bank may request the Board to approve an amendment to the plan on grounds that there has been a material change in circumstances. The bank shall develop an amendment to a previously approved plan in accordance with the public participation requirements of paragraph (d) of this section.

(i) *Plan assessment.* The Board approves the goals and assesses performance under a plan as provided for in appendix A of this part.

§ 228.28 Assigned ratings.

(a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, the Board assigns to a bank a rating of "outstanding," "satisfactory," "needs to improve," or "substantial noncompliance" based on the bank's performance under the lending, investment and service tests, the community development test, the small bank performance standards, or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests.* The Board assigns a rating for a bank assessed under the lending, investment, and service tests in accordance with the following principles:

(1) A bank that receives an "outstanding" rating on the lending test receives an assigned rating of at least "satisfactory";

(2) A bank that receives an "outstanding" rating on both the service test and the investment test and a rating of at least "high satisfactory" on the lending test receives an assigned rating of "outstanding"; and

(3) No bank may receive an assigned rating of "satisfactory" or higher unless it receives a rating of at least "low satisfactory" on the lending test.

(c) *Effect of evidence of discriminatory or other illegal credit practices.* (1) The Board's evaluation of a bank's CRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any geography by the bank or in any assessment area by any affiliate whose loans have been

considered as part of the bank's lending performance. In connection with any type of lending activity described in §228.22(a), evidence of discriminatory or other credit practices that violate an applicable law, rule, or regulation includes, but is not limited to:

- (i) Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act or the Fair Housing Act;
- (ii) Violations of the Home Ownership and Equity Protection Act;
- (iii) Violations of section 5 of the Federal Trade Commission Act;
- (iv) Violations of section 8 of the Real Estate Settlement Procedures Act; and
- (v) Violations of the Truth in Lending Act provisions regarding a consumer's right of rescission.

(2) In determining the effect of evidence of practices described in paragraph (c)(1) of this section on the bank's assigned rating, the Board considers the nature, extent, and strength of the evidence of the practices; the policies and procedures that the bank (or affiliate, as applicable) has in place to prevent the practices; any corrective action that the bank (or affiliate, as applicable) has taken or has committed to take, including voluntary corrective action resulting from self-assessment; and any other relevant information.

§228.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the Board takes into account the record of performance under the CRA of:

- (1) Each applicant bank for the:
 - (i) Establishment of a domestic branch by a State member bank; and
 - (ii) Merger, consolidation, acquisition of assets, or assumption of liabilities requiring approval under the Bank Merger Act (12 U.S.C. 1828(c)) if the acquiring, assuming, or resulting bank is to be a State member bank; and
- (2) Each insured depository institution (as defined in 12 U.S.C. 1813) controlled by an applicant and subsidiary bank or savings association proposed to be controlled by an applicant:
 - (i) To become a bank holding company in a transaction that requires approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842);
 - (ii) To acquire ownership or control of shares or all or substantially all of the assets of a bank, to cause a bank to become a subsidiary of a bank holding company, or to merge or consolidate a bank holding company with any other bank holding company in a transaction that requires approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842);
 - (iii) To own, control or operate a savings association in a transaction that requires ap-

proval under section 4 of the Bank Holding Company Act (12 U.S.C. 1843);

(iv) To become a savings and loan holding company in a transaction that requires approval under section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a); and

(v) To acquire ownership or control of shares or all or substantially all of the assets of a savings association, to cause a savings association to become a subsidiary of a savings and loan holding company, or to merge or consolidate a savings and loan holding company with any other savings and loan holding company in a transaction that requires approval under section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a).

(b) *Interested parties.* In considering CRA performance in an application described in paragraph (a) of this section, the Board takes into account any views expressed by interested parties that are submitted in accordance with the Board's Rules of Procedure set forth in part 262 of this chapter.

(c) *Denial or conditional approval of application.* A bank or savings association's record of performance may be the basis for denying or conditioning approval of an application listed in paragraph (a) of this section.

(d) *Definitions.* For purposes of paragraphs (a)(2)(i), (ii), and (iii) of this section, "bank," "bank holding company," "subsidiary," and "savings association" have the meanings given to those terms in section 2 of the Bank Holding Company Act (12 U.S.C. 1841). For purposes of paragraphs (a)(2)(iv) and (v) of this section, "savings and loan holding company" and "subsidiary" has the meaning given to that term in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a).

Subpart C—Records, Reporting, and Disclosure Requirements

§228.41 Assessment area delineation.

(a) *In general.* A bank shall delineate one or more assessment areas within which the Board evaluates the bank's record of helping to meet the credit needs of its community. The Board does not evaluate the bank's delineation of its assessment area(s) as a separate performance criterion, but the Board reviews the delineation for compliance with the requirements of this section.

(b) *Geographic area(s) for wholesale or limited purpose banks.* The assessment area(s) for a wholesale or limited purpose bank must consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns, in which the bank has its main office, branches, and deposit-taking ATMs.

(c) *Geographic area(s) for other banks.* The assessment area(s) for a bank other than a wholesale or limited purpose bank must:

(1) Consist generally of one or more MSAs or metropolitan divisions (using the MSA or metropolitan division boundaries that were in effect as of January 1 of the calendar year in which the delineation is made) or one or more contiguous political subdivisions, such as counties, cities, or towns; and

(2) Include the geographies in which the bank has its main office, its branches, and its deposit-taking ATMs, as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans (including home mortgage loans, small business and small farm loans, and any other loans the bank chooses, such as those consumer loans on which the bank elects to have its performance assessed).

(d) *Adjustments to geographic area(s).* A bank may adjust the boundaries of its assessment area(s) to include only the portion of a political subdivision that it reasonably can be expected to serve. An adjustment is particularly appropriate in the case of an assessment area that otherwise would be extremely large, of unusual configuration, or divided by significant geographic barriers.

(e) *Limitations on the delineation of an assessment area.* Each bank's assessment area(s):

(1) Must consist only of whole geographies;

(2) May not reflect illegal discrimination;

(3) May not arbitrarily exclude low- or moderate-income geographies, taking into account the bank's size and financial condition; and

(4) May not extend substantially beyond an MSA boundary or beyond a state boundary unless the assessment area is located in a multistate MSA. If a bank serves a geographic area that extends substantially beyond a state boundary, the bank shall delineate separate assessment areas for the areas in each state. If a bank serves a geographic area that extends substantially beyond an MSA boundary, the bank shall delineate separate assessment areas for the areas inside and outside the MSA.

(f) *Banks serving military personnel.* Notwithstanding the requirements of this section, a bank whose business predominantly consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area may delineate its entire deposit customer base as its assessment area.

(g) *Use of assessment area(s).* The Board uses the assessment area(s) delineated by a bank in its evaluation of the bank's CRA performance unless the Board determines that the assessment area(s) do not comply with the requirements of this section.

§ 228.42 Data collection, reporting, and disclosure.

(a) *Loan information required to be collected and maintained.* A bank, except a small bank, shall collect, and maintain in machine readable form (as prescribed by the Board) until the completion of its next CRA examination, the following data for each small business or small farm loan originated or purchased by the bank:

(1) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(2) The loan amount at origination;

(3) The loan location; and

(4) An indicator whether the loan was to a business or farm with gross annual revenues of \$1 million or less.

(b) *Loan information required to be reported.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall report annually by March 1 to the Board in machine readable form (as prescribed by the Board) the following data for the prior calendar year:

(1) *Small business and small farm loan data.* For each geography in which the bank originated or purchased a small business or small farm loan, the aggregate number and amount of loans:

(i) With an amount at origination of \$100,000 or less;

(ii) With amount at origination of more than \$100,000 but less than or equal to \$250,000;

(iii) With an amount at origination of more than \$250,000; and

(iv) To businesses and farms with gross annual revenues of \$1 million or less (using the revenues that the bank considered in making its credit decision);

(2) *Community development loan data.* The aggregate number and aggregate amount of community development loans originated or purchased; and

(3) *Home mortgage loans.* If the bank is subject to reporting under part 1003 of this chapter, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank has a home or branch office (or outside any MSA) in accordance with the requirements of part 1003 of this chapter.

(c) *Optional data collection and maintenance—(1) Consumer loans.* A bank may collect and maintain in machine readable form (as prescribed by the Board) data for consumer loans originated or purchased by the bank for consideration under the lending test. A bank may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, other secured, and other unsecured. If the bank maintains data for loans in a certain category, it shall maintain data for all loans originated or purchased within that category. The bank shall maintain data separately for each category, including for each loan:

(i) A unique number or alpha-numeric symbol that can be used to identify the relevant loan file;

(ii) The loan amount at origination or purchase;

(iii) The loan location; and

(iv) The gross annual income of the borrower that the bank considered in making its credit decision.

(2) *Other loan data.* At its option, a bank may provide other information concerning its lending performance, including additional loan distribution data.

(d) *Data on affiliate lending.* A bank that elects to have the Board consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain, and report for those loans the data that the bank would have collected, maintained, and reported pursuant to paragraphs (a), (b), and (c) of this section had the loans been originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared to identify the home mortgage loans reported under part 1003 of this chapter by the affiliate.

(e) *Data on lending by a consortium or a third party.* A bank that elects to have the Board consider community development loans by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the bank would have reported under paragraph (b)(2) of this section had the loans been originated or purchased by the bank.

(f) *Small banks electing evaluation under the lending, investment, and service tests.* A bank that qualifies for evaluation under the small bank performance standards but elects evaluation under the lending, investment, and service tests shall collect, maintain, and report the data required for other banks pursuant to paragraphs (a) and (b) of this section.

(g) *Assessment area data.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall collect and report to the Board by March 1 of each year a list for each assessment area showing the geographies within the area.

(h) *CRA Disclosure Statement.* The Board prepares annually for each bank that reports data pursuant to this section a CRA Disclosure Statement that contains, on a state-by-state basis:

(1) For each county (and for each assessment area smaller than a county) with a population of 500,000 persons or fewer in which the bank reported a small business or small farm loan:

(i) The number and amount of small business and small farm loans reported as originated or purchased located in low-, moderate-, middle-, and upper-income geographies;

(ii) A list grouping each geography according to whether the geography is low-, moderate-, middle-, or upper-income;

(iii) A list showing each geography in which the bank reported a small business or small farm loan; and

(iv) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of \$1 million or less;

(2) For each county (and for each assessment area smaller than a county) with a population in excess of 500,000 persons in which the bank reported a small business or small farm loan:

(i) The number and amount of small business and small farm loans reported as originated or purchased located in geographies with median income relative to the area median income of less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(ii) A list grouping each geography in the county or assessment area according to whether the median income in the geography relative to the area median income is less than 10 percent, 10 or more but less than 20 percent, 20 or more but less than 30 percent, 30 or more but less than 40 percent, 40 or more but less than 50 percent, 50 or more but less than 60 percent, 60 or more but less than 70 percent, 70 or more but less than 80 percent, 80 or more but less than 90 percent, 90 or more but less than 100 percent, 100 or more but less than 110 percent, 110 or more but less than 120 percent, and 120 percent or more;

(iii) A list showing each geography in which the bank reported a small business or small farm loan; and

(iv) The number and amount of small business and small farm loans to businesses and farms with gross annual revenues of \$1 million or less;

(3) The number and amount of small business and small farm loans located inside each assessment area reported by the bank and the number and amount of small business and small farm loans located outside the assessment area(s) reported by the bank; and

(4) The number and amount of community development loans reported as originated or purchased.

(i) *Aggregate disclosure statements.* The Board, in conjunction with the Office of the Comptroller of the Currency and the Federal

Deposit Insurance Corporation, prepares annually, for each MSA or metropolitan division (including an MSA or metropolitan division that crosses a state boundary) and the nonmetropolitan portion of each state, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting under this part or parts 25, 195, or 345 of this title. These disclosure statements indicate, for each geography, the number and amount of all small business and small farm loans originated or purchased by reporting institutions, except that the Board may adjust the form of the disclosure if necessary, because of special circumstances, to protect the privacy of a borrower or the competitive position of an institution.

(j) *Central data depositories.* The Board makes the aggregate disclosure statements, described in paragraph (i) of this section, and the individual bank CRA Disclosure Statements, described in paragraph (h) of this section, available to the public at central data depositories. The Board publishes a list of the depositories at which the statements are available.

§ 228.43 Content and availability of public file.

(a) *Information available to the public.* A bank shall maintain a public file that includes the following information:

(1) All written comments received from the public for the current year and each of the prior two calendar years that specifically relate to the bank's performance in helping to meet community credit needs, and any response to the comments by the bank, if neither the comments nor the responses contain statements that reflect adversely on the good name or reputation of any persons other than the bank or publication of which would violate specific provisions of law;

(2) A copy of the public section of the bank's most recent CRA Performance Evaluation prepared by the Board. The bank shall place this copy in the public file within 30 business days after its receipt from the Board;

(3) A list of the bank's branches, their street addresses, and geographies;

(4) A list of branches opened or closed by the bank during the current year and each of the prior two calendar years, their street addresses, and geographies;

(5) A list of services (including hours of operation, available loan and deposit products, and transaction fees) generally offered at the bank's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank may include information regarding the availability of alternative systems for delivering retail banking services (e.g., ATMs, ATMs not owned or operated by or exclusively for the bank, banking by tele-

phone or computer, loan production offices, and bank-at-work or bank-by-mail programs);

(6) A map of each assessment area showing the boundaries of the area and identifying the geographies contained within the area, either on the map or in a separate list; and

(7) Any other information the bank chooses.

(b) *Additional information available to the public—(1) Banks other than small banks.* A bank, except a small bank or a bank that was a small bank during the prior calendar year, shall include in its public file the following information pertaining to the bank and its affiliates, if applicable, for each of the prior two calendar years:

(i) If the bank has elected to have one or more categories of its consumer loans considered under the lending test, for each of these categories, the number and amount of loans:

(A) To low-, moderate-, middle-, and upper-income individuals;

(B) Located in low-, moderate-, middle-, and upper-income census tracts; and

(C) Located inside the bank's assessment area(s) and outside the bank's assessment area(s); and

(ii) The bank's CRA Disclosure Statement. The bank shall place the statement in the public file within three business days of its receipt from the Board.

(2) *Banks required to report Home Mortgage Disclosure Act (HMDA) data.* A bank required to report home mortgage loan data pursuant part 1003 of this title shall include in its public file a written notice that the institution's HMDA Disclosure Statement may be obtained on the Consumer Financial Protection Bureau's (Bureau's) website at www.consumerfinance.gov/hmda. In addition, a bank that elected to have the Board consider the mortgage lending of an affiliate shall include in its public file the name of the affiliate and a written notice that the affiliate's HMDA Disclosure Statement may be obtained at the Bureau's website. The bank shall place the written notice(s) in the public file within three business days after receiving notification from the Federal Financial Institutions Examination Council of the availability of the disclosure statement(s).

(3) *Small banks.* A small bank or a bank that was a small bank during the prior calendar year shall include in its public file:

(i) The bank's loan-to-deposit ratio for each quarter of the prior calendar year and, at its option, additional data on its loan-to-deposit ratio; and

(ii) The information required for other banks by paragraph (b)(1) of this section, if the bank has elected to be evaluated under the lending, investment, and service tests.

(4) *Banks with strategic plans.* A bank that has been approved to be assessed under a strategic plan shall include in its public file

a copy of that plan. A bank need not include information submitted to the Board on a confidential basis in conjunction with the plan.

(5) *Banks with less than satisfactory ratings.* A bank that received a less than satisfactory rating during its most recent examination shall include in its public file a description of its current efforts to improve its performance in helping to meet the credit needs of its entire community. The bank shall update the description quarterly.

(c) *Location of public information.* A bank shall make available to the public for inspection upon request and at no cost the information required in this section as follows:

(1) At the main office and, if an interstate bank, at one branch office in each state, all information in the public file; and

(2) At each branch:

(i) A copy of the public section of the bank's most recent CRA Performance Evaluation and a list of services provided by the branch; and

(ii) Within five calendar days of the request, all the information in the public file relating to the assessment area in which the branch is located.

(d) *Copies.* Upon request, a bank shall provide copies, either on paper or in another form acceptable to the person making the request, of the information in its public file. The bank may charge a reasonable fee not to exceed the cost of copying and mailing (if applicable).

(e) *Updating.* Except as otherwise provided in this section, a bank shall ensure that the information required by this section is current as of April 1 of each year.

§ 228.44 Public notice by banks.

A bank shall provide in the public lobby of its main office and each of its branches the appropriate public notice set forth in appendix B of this part. Only a branch of a bank having more than one assessment area shall include the bracketed material in the notice for branch offices. Only a bank that is an affiliate of a holding company shall include the next to the last sentence of the notices. A bank shall include the last sentence of the notices only if it is an affiliate of a holding company that is not prevented by statute from acquiring additional banks.

§ 228.45 Publication of planned examination schedule.

The Board publishes at least 30 days in advance of the beginning of each calendar quarter a list of banks scheduled for CRA examinations in that quarter.

APPENDIX A TO PART 228—RATINGS

(a) *Ratings in general.* (1) In assigning a rating, the Board evaluates a bank's performance under the applicable performance criteria in this part, in accordance with §§ 228.21 and 228.28. This includes consideration of

low-cost education loans provided to low-income borrowers and activities in cooperation with minority- or women-owned financial institutions and low-income credit unions, as well as adjustments on the basis of evidence of discriminatory or other illegal credit practices.

(2) A bank's performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others. The bank's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Banks evaluated under the lending, investment, and service tests*—(1) *Lending performance rating.* The Board assigns each bank's lending performance one of the five following ratings.

(i) *Outstanding.* The Board rates a bank's lending performance "outstanding" if, in general, it demonstrates:

(A) Excellent responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A substantial majority of its loans are made in its assessment area(s);

(C) An excellent geographic distribution of loans in its assessment area(s);

(D) An excellent distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) An excellent record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) Extensive use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It is a leader in making community development loans.

(ii) *High satisfactory.* The Board rates a bank's lending performance "high satisfactory" if, in general, it demonstrates:

(A) Good responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A high percentage of its loans are made in its assessment area(s);

(C) A good geographic distribution of loans in its assessment area(s);

(D) A good distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses

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(including farms) of different sizes, given the product lines offered by the bank;

(E) A good record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) Use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made a relatively high level of community development loans.

(iii) *Low satisfactory.* The Board rates a bank's lending performance "low satisfactory" if, in general, it demonstrates:

(A) Adequate responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) An adequate percentage of its loans are made in its assessment area(s);

(C) An adequate geographic distribution of loans in its assessment area(s);

(D) An adequate distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) An adequate record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) Limited use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made an adequate level of community development loans.

(iv) *Needs to improve.* The Board rates a bank's lending performance "needs to improve" if, in general, it demonstrates:

(A) Poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A small percentage of its loans are made in its assessment area(s);

(C) A poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income

individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) Little use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made a low level of community development loans.

(v) *Substantial noncompliance.* The Board rates a bank's lending performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) A very poor responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s);

(B) A very small percentage of its loans are made in its assessment area(s);

(C) A very poor geographic distribution of loans, particularly to low- or moderate-income geographies, in its assessment area(s);

(D) A very poor distribution, particularly in its assessment area(s), of loans among individuals of different income levels and businesses (including farms) of different sizes, given the product lines offered by the bank;

(E) A very poor record of serving the credit needs of highly economically disadvantaged areas in its assessment area(s), low-income individuals, or businesses (including farms) with gross annual revenues of \$1 million or less, consistent with safe and sound operations;

(F) No use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies; and

(G) It has made few, if any, community development loans.

(2) *Investment performance rating.* The Board assigns each bank's investment performance one of the five following ratings.

(i) *Outstanding.* The Board rates a bank's investment performance "outstanding" if, in general, it demonstrates:

(A) An excellent level of qualified investments, particularly those that are not routinely provided by private investors, often in a leadership position;

(B) Extensive use of innovative or complex qualified investments; and

(C) Excellent responsiveness to credit and community development needs.

(ii) *High satisfactory.* The Board rates a bank's investment performance "high satisfactory" if, in general, it demonstrates:

(A) A significant level of qualified investments, particularly those that are not routinely provided by private investors, occasionally in a leadership position;

(B) Significant use of innovative or complex qualified investments; and

(C) Good responsiveness to credit and community development needs.

(iii) *Low satisfactory.* The Board rates a bank's investment performance "low satisfactory" if, in general, it demonstrates:

(A) An adequate level of qualified investments, particularly those that are not routinely provided by private investors, although rarely in a leadership position;

(B) Occasional use of innovative or complex qualified investments; and

(C) Adequate responsiveness to credit and community development needs.

(iv) *Needs to improve.* The Board rates a bank's investment performance "needs to improve" if, in general, it demonstrates:

(A) A poor level of qualified investments, particularly those that are not routinely provided by private investors;

(B) Rare use of innovative or complex qualified investments; and

(C) Poor responsiveness to credit and community development needs.

(v) *Substantial noncompliance.* The Board rates a bank's investment performance as being in "substantial noncompliance" if, in general, it demonstrates:

(A) Few, if any, qualified investments, particularly those that are not routinely provided by private investors;

(B) No use of innovative or complex qualified investments; and

(C) Very poor responsiveness to credit and community development needs.

(3) *Service performance rating.* The Board assigns each bank's service performance one of the five following ratings.

(i) *Outstanding.* The Board rates a bank's service performance "outstanding" if, in general, the bank demonstrates:

(A) Its service delivery systems are readily accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has improved the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) are tailored to the convenience and needs of its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It is a leader in providing community development services.

(ii) *High satisfactory.* The Board rates a bank's service performance "high satisfactory" if, in general, the bank demonstrates:

(A) Its service delivery systems are accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches

has not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides a relatively high level of community development services.

(iii) *Low satisfactory.* The Board rates a bank's service performance "low satisfactory" if, in general, the bank demonstrates:

(A) Its service delivery systems are reasonably accessible to geographies and individuals of different income levels in its assessment area(s);

(B) To the extent changes have been made, its record of opening and closing branches has generally not adversely affected the accessibility of its delivery systems, particularly in low- and moderate-income geographies and to low- and moderate-income individuals;

(C) Its services (including, where appropriate, business hours) do not vary in a way that inconveniences its assessment area(s), particularly low- and moderate-income geographies and low- and moderate-income individuals; and

(D) It provides an adequate level of community development services.

(iv) *Needs to improve.* The Board rates a bank's service performance "needs to improve" if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It provides a limited level of community development services.

(v) *Substantial noncompliance.* The Board rates a bank's service performance as being in "substantial noncompliance" if, in general, the bank demonstrates:

(A) Its service delivery systems are unreasonably inaccessible to significant portions of its assessment area(s), particularly to low- or moderate-income geographies or to low- or moderate-income individuals;

(B) To the extent changes have been made, its record of opening and closing branches

has significantly adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals;

(C) Its services (including, where appropriate, business hours) vary in a way that significantly inconveniences its assessment area(s), particularly low- or moderate-income geographies or low- or moderate-income individuals; and

(D) It provides few, if any, community development services.

(c) *Wholesale or limited purpose banks.* The Board assigns each wholesale or limited purpose bank's community development performance one of the four following ratings.

(1) *Outstanding.* The Board rates a wholesale or limited purpose bank's community development performance "outstanding" if, in general, it demonstrates:

(i) A high level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Extensive use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Excellent responsiveness to credit and community development needs in its assessment area(s).

(2) *Satisfactory.* The Board rates a wholesale or limited purpose bank's community development performance "satisfactory" if, in general, it demonstrates:

(i) An adequate level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Occasional use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Adequate responsiveness to credit and community development needs in its assessment area(s).

(3) *Needs to improve.* The Board rates a wholesale or limited purpose bank's community development performance as "needs to improve" if, in general, it demonstrates:

(i) A poor level of community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) Rare use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Poor responsiveness to credit and community development needs in its assessment area(s).

(4) *Substantial noncompliance.* The Board rates a wholesale or limited purpose bank's

community development performance in "substantial noncompliance" if, in general, it demonstrates:

(i) Few, if any, community development loans, community development services, or qualified investments, particularly investments that are not routinely provided by private investors;

(ii) No use of innovative or complex qualified investments, community development loans, or community development services; and

(iii) Very poor responsiveness to credit and community development needs in its assessment area(s).

(d) *Banks evaluated under the small bank performance standards—(1) Lending test ratings.* (i) *Eligibility for a satisfactory lending test rating.* The Board rates a small bank's lending performance "satisfactory" if, in general, the bank demonstrates:

(A) A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's size, financial condition, the credit needs of its assessment area(s), and taking into account, as appropriate, other lending-related activities such as loan originations for sale to the secondary markets and community development loans and qualified investments;

(B) A majority of its loans and, as appropriate, other lending-related activities, are in its assessment area;

(C) A distribution of loans to and, as appropriate, other lending-related activities for individuals of different income levels (including low- and moderate-income individuals) and businesses and farms of different sizes that is reasonable given the demographics of the bank's assessment area(s);

(D) A record of taking appropriate action, when warranted, in response to written complaints, if any, about the bank's performance in helping to meet the credit needs of its assessment area(s); and

(E) A reasonable geographic distribution of loans given the bank's assessment area(s).

(ii) *Eligibility for an "outstanding" lending test rating.* A small bank that meets each of the standards for a "satisfactory" rating under this paragraph and exceeds some or all of those standards may warrant consideration for a lending test rating of "outstanding."

(iii) *Needs to improve or substantial non-compliance ratings.* A small bank may also receive a lending test rating of "needs to improve" or "substantial noncompliance" depending on the degree to which its performance has failed to meet the standard for a "satisfactory" rating.

(2) *Community development test ratings for intermediate small banks—(i) Eligibility for a satisfactory community development test rating.* The Board rates an intermediate small bank's community development performance

“satisfactory” if the bank demonstrates adequate responsiveness to the community development needs of its assessment area(s) through community development loans, qualified investments, and community development services. The adequacy of the bank’s response will depend on its capacity for such community development activities, its assessment area’s need for such community development activities, and the availability of such opportunities for community development in the bank’s assessment area(s).

(ii) *Eligibility for an outstanding community development test rating.* The Board rates an intermediate small bank’s community development performance “outstanding” if the bank demonstrates excellent responsiveness to community development needs in its assessment area(s) through community development loans, qualified investments, and community development services, as appropriate, considering the bank’s capacity and the need and availability of such opportunities for community development in the bank’s assessment area(s).

(iii) *Needs to improve or substantial non-compliance ratings.* An intermediate small bank may also receive a community development test rating of “needs to improve” or “substantial noncompliance” depending on the degree to which its performance has failed to meet the standards for a “satisfactory” rating.

(3) *Overall rating—(i) Eligibility for a satisfactory overall rating.* No intermediate small bank may receive an assigned overall rating of “satisfactory” unless it receives a rating of at least “satisfactory” on both the lending test and the community development test.

(ii) *Eligibility for an outstanding overall rating.* (A) An intermediate small bank that receives an “outstanding” rating on one test and at least “satisfactory” on the other test may receive an assigned overall rating of “outstanding.”

(B) A small bank that is not an intermediate small bank that meets each of the standards for a “satisfactory” rating under the lending test and exceeds some or all of those standards may warrant consideration for an overall rating of “outstanding.” In assessing whether a bank’s performance is “outstanding,” the Board considers the extent to which the bank exceeds each of the performance standards for a “satisfactory” rating and its performance in making qualified investments and its performance in providing branches and other services and delivery systems that enhance credit availability in its assessment area(s).

(iii) *Needs to improve or substantial non-compliance overall ratings.* A small bank may also receive a rating of “needs to improve” or “substantial noncompliance” depending on the degree to which its performance has

failed to meet the standards for a “satisfactory” rating.

(e) *Strategic plan assessment and rating—(1) Satisfactory goals.* The Board approves as “satisfactory” measurable goals that adequately help to meet the credit needs of the bank’s assessment area(s).

(2) *Outstanding goals.* If the plan identifies a separate group of measurable goals that substantially exceed the levels approved as “satisfactory,” the Board will approve those goals as “outstanding.”

(3) *Rating.* The Board assesses the performance of a bank operating under an approved plan to determine if the bank has met its plan goals:

(i) If the bank substantially achieves its plan goals for a satisfactory rating, the Board will rate the bank’s performance under the plan as “satisfactory.”

(ii) If the bank exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating, the Board will rate the bank’s performance under the plan as “outstanding.”

(iii) If the bank fails to meet substantially its plan goals for a satisfactory rating, the Board will rate the bank as either “needs to improve” or “substantial noncompliance,” depending on the extent to which it falls short of its plan goals, unless the bank elected in its plan to be rated otherwise, as provided in §228.27(f)(4).

APPENDIX B TO PART 228—CRA NOTICE

(a) Notice for main offices and, if an interstate bank, one branch office in each state.

COMMUNITY REINVESTMENT ACT NOTICE

Under the Federal Community Reinvestment Act (CRA), the Federal Reserve Board (Board) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Board also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA, including, for example, information about our branches, such as their location and services provided at them; the public section of our most recent CRA Performance Evaluation, prepared by the Federal Reserve Bank of _____ (Reserve Bank); and comments received from the public relating to our performance in helping to meet community credit needs, as well as our responses to those comments. You may review this information today.

At least 30 days before the beginning of each quarter, the Federal Reserve System publishes a list of the banks that are scheduled for CRA examination by the Reserve Bank in that quarter. This list is available

from (title of responsible official), Federal Reserve Bank of _____ (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and (title of responsible official), Federal Reserve Bank of _____ (address). Your letter, together with any response by us, will be considered by the Federal Reserve System in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Reserve Bank. You may also request from the Reserve Bank an announcement of our applications covered by the CRA filed with the Reserve Bank. We are an affiliate of (name of holding company), a bank holding company. You may request from (title of responsible official), Federal Reserve Bank of _____ (address) an announcement of applications covered by the CRA filed by bank holding companies.

(b) Notice for branch offices.

COMMUNITY REINVESTMENT ACT NOTICE

Under the Federal Community Reinvestment Act (CRA), the Federal Reserve Board (Board) evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The Board also takes this record into account when deciding on certain applications submitted by us.

Your involvement is encouraged.

You are entitled to certain information about our operations and our performance under the CRA. You may review today the public section of our most recent CRA evaluation, prepared by the Federal Reserve Bank of _____ (address), and a list of services provided at this branch. You may also have access to the following additional information, which we will make available to you at this branch within five calendar days after you make a request to us: (1) a map showing the assessment area containing this branch, which is the area in which the Board evaluates our CRA performance in this community; (2) information about our branches in this assessment area; (3) a list of services we provide at those locations; (4) data on our lending performance in this assessment area; and (5) copies of all written comments received by us that specifically relate to our CRA performance in this assessment area, and any responses we have made to those comments. If we are operating under an approved strategic plan, you may also have access to a copy of the plan.

[If you would like to review information about our CRA performance in other communities served by us, the public file for our entire bank is available at (name of office located in state), located at (address).]

At least 30 days before the beginning of each quarter, the Federal Reserve System publishes a list of the banks that are sched-

uled for CRA examination by the Reserve Bank in that quarter. This list is available from (title of responsible official), Federal Reserve Bank of _____ (address). You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank) and (title of responsible official), Federal Reserve Bank of _____ (address). Your letter, together with any response by us, will be considered by the Federal Reserve System in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the Reserve Bank. You may also request from the Reserve Bank an announcement of our applications covered by the CRA filed with the Reserve Bank. We are an affiliate of (name of holding company), a bank holding company. You may request from (title of responsible official), Federal Reserve Bank of _____ (address) an announcement of applications covered by the CRA filed by bank holding companies.

[Reg. BB, 89 FR 7193, Feb. 1, 2024, as amended at 89 FR 22068, Mar. 29, 2024]

EFFECTIVE DATE NOTE: At 89 FR 7193, Feb. 1, 2024, appendix G to part 228 was added, effective Apr. 1, 2024, through Jan. 1, 2031.

PART 229—AVAILABILITY OF FUNDS AND COLLECTION OF CHECKS (REGULATION CC)

Subpart A—General

Sec.

- 229.1 Authority and purpose; organization.
- 229.2 Definitions.
- 229.3 Administrative enforcement.

Subpart B—Availability of Funds and Disclosure of Funds Availability Policies

- 229.10 Next-day availability.
- 229.11 Adjustment of dollar amounts.
- 229.12 Availability schedule.
- 229.13 Exceptions.
- 229.14 Payment of interest.
- 229.15 General disclosure requirements.
- 229.16 Specific availability policy disclosure.
- 229.17 Initial disclosures.
- 229.18 Additional disclosure requirements.
- 229.19 Miscellaneous.
- 229.20 Relation to state law.
- 229.21 Civil liability.

Subpart C—Collection of Checks

- 229.30 Electronic checks and electronic information.
- 229.31 Paying bank's responsibility for return of checks and notices of non-payment.