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AUTHORITY: 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1462a, 1463, 1464, 1814, 1816, 1828(c), 1835a, 2901 through 2908, 3101 through 3111, and 5412(b)(2)(B).

SOURCE: 86 FR 71339, Dec. 15, 2021, unless otherwise noted.

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SOURCE: 89 FR 7165, Feb. 1, 2024, unless otherwise noted.

§ 25.11 Authority, purposes, and scope.

(a) *Authority.* The authority for this part is 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1462a, 1463, 1464, 1814, 1816, 1828(c), 1835a, 2901 through 2908, 3101 through 3111, and 5412(b)(2)(B).

(b) *Purposes.* This part implements the requirement in the Community Reinvestment Act (12 U.S.C. 2901 *et seq.*) (CRA) that the appropriate Federal banking agency assess a bank's or savings association's record of helping to meet the credit needs of the local communities in which the bank or savings association is chartered, consistent with the safe and sound operation of the bank or savings association, and to take this record into account in the agency's evaluation of an application for a deposit facility by the bank or

savings association. Accordingly, this part:

(1) Establishes the framework and criteria by which the appropriate Federal banking agency assesses a bank's or savings association'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 or savings association; and

(2) Provides that the appropriate Federal banking agency takes that record into account in considering certain applications.

(c) *Scope*—(1) *General*. (i) This subpart, subparts B through E of this part, and appendices A through G to this part apply to all banks and savings associations except as provided in paragraphs (c)(2) and (3) of this section. Subpart F of this part only applies to banks.

(ii) With respect to this subpart, subparts B through E of this part, and appendices A through F to this part:

(A) The Office of the Comptroller of the Currency (OCC) has the authority to prescribe the regulations in this part for national banks, Federal savings associations, Federal branches of foreign banks, and State savings associations and has the authority to enforce the regulations in this part for national banks, Federal branches of foreign banks, and Federal savings associations; and

(B) The Federal Deposit Insurance Corporation (FDIC) has the authority to enforce the regulations in this part for State savings associations.

(2) *Federal branches and agencies*. (i) This part applies to all insured Federal branches and to any Federal branch that is uninsured 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)).

(ii) Except as provided in paragraph (c)(2)(i) of this section, this part does not apply to uninsured Federal branches, limited Federal branches, or Federal agencies, as those terms are defined or used in part 28 of this chapter.

(3) *Certain special purpose banks and savings associations*. This part does not apply to special purpose banks or spe-

cial purpose savings associations 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 or savings associations include banker's banks, as defined in 12 U.S.C. 24(Seventh), and banks or savings associations that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks or savings associations, trust companies, or clearing agents.

§ 25.12 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 same 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.

Affordable housing means activities described in § 25.13(b).

Appropriate Federal banking agency means, with respect to this subpart (except in the definition of *minority depository institution* in this section), subparts B through E of this part, and appendices A through E to this part:

(1) The OCC when the institution is a bank or Federal savings association; and

(2) The FDIC when the institution is a State savings association.

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.

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Assets means a bank's or savings association'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 national bank (including a Federal branch as defined in part 28 of this chapter) with federally insured deposits, except as provided in § 25.11(c).

Branch means a staffed banking facility, whether shared or unshared, that the appropriate Federal banking agency 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 § 25.13(b) through (l).

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; member-

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ship share; grant; or monetary or in-kind donation that supports community development, as described in § 25.13.

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 § 25.13. A community development loan does not include any home mortgage loan considered under the Retail Lending Test in § 25.22, with the exception of one-to-four family home mortgage loans for rental housing with affordable rents in nonmetropolitan areas under § 25.13(b)(3).

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

- (1) Support community development, as described in § 25.13; 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 savings association 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 or savings associations that collect, maintain, and report deposits data as provided in § 25.42, the

address on file with the bank or savings association 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 or savings associations that do not collect, maintain, and report deposits data as provided in § 25.42, the county of the bank or savings association 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 § 25.11 and 12 CFR 228.11 and 345.11.

Deposits has the following meanings:

(1) For banks or savings associations that collect, maintain, and report deposits data as provided in § 25.42, *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 or savings associations that do not collect, maintain, and report deposits data as provided in § 25.42, *deposits* means a bank's or savings association'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 or savings associations 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 of Governors of the Federal Reserve System (Board), the FDIC, and the 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 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 or savings association conducted the activities that the appropriate Federal banking agency evaluates in a CRA examination, in accordance with the appropriate Federal banking agency's guidelines and procedures.

Facility-based assessment area means a geographic area delineated pursuant to § 25.16.

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

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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 or savings association means a bank or savings association, excluding a bank or savings association designated as a limited purpose bank or savings association pursuant to § 25.26, 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 OCC 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 or savings association means a bank or savings association, excluding a bank or savings association designated as a limited purpose bank or savings association pursuant to § 25.26, that had assets of at least \$2 billion as of December 31 in both of the prior two calendar years. The OCC 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 de-

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

Limited purpose bank or savings association means a bank or savings association that is not in the business of extending closed-end home mortgage loans, small business loans, small farm loans, or automobile loans evaluated under § 25.22 to retail customers, except on an incidental and accommodation basis, and for which a designation as a limited purpose bank or savings association is in effect, pursuant to § 25.26.

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 multifamily loan is located in the census 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 or savings association 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 appropriate Federal banking agency evaluates in a particular Retail Lending Test Area, pursuant to § 25.22(d)(2) and paragraphs II.b.1 and II.b.2 of appendix A to this part.

Majority automobile lender means a bank or savings association 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 or savings association means a bank or savings association 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 or savings association whose business predominantly consists of serving the needs of military personnel or their dependents means a bank or savings association 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);

(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.

Operating subsidiary means an operating subsidiary as described in 12 CFR 5.34 in the case of an operating subsidiary of a national bank or an operating subsidiary as described in 12 CFR 5.38 in the case of a savings association.

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

Outside retail lending area means the geographic area delineated pursuant to § 25.18.

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 or savings association'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 or savings association is a majority automobile lender or opts to have its automobile loans evaluated pursuant to § 25.22.

Remote service facility means an automated, virtually staffed, or unstaffed banking facility owned or operated by, or operated exclusively for, a bank or savings association, 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 or savings association 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 or savings association pursuant to § 25.42.

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

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

Retail lending assessment area means a geographic area delineated pursuant to § 25.17.

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

Savings association means a Federal savings association or a State savings association.

Small bank or savings association means a bank or savings association, excluding a bank or savings association designated as a limited purpose bank or savings association pursuant to § 25.26, that had assets of less than \$600 million as of December 31 in either of the prior two calendar years. The appropriate Federal banking agency 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).

EDITORIAL NOTE: At 89 FR 7166, Feb. 1, 2024, § 25.12 was amended in part by removing “appropriate Federal banking agency” and adding “OCC” in the definition of “Small bank and savings association”; however, the amendment could not be incorporated due to inaccurate amendatory instruction.

EFFECTIVE DATE NOTE: At 89 FR 7167, Feb. 1, 2024, § 25.12 was amended by:

a. In the definition of “Loan location,” revising paragraph (3);

b. In the definition of “Reported loan,” revising paragraph (2); and

c. Revising the definitions of “Small business,” “Small business loan,” “Small farm,” and “Small farm loan.”

The effective date is delayed indefinitely. For the convenience of the user, the revised text is set forth as follows:

§ 25.12 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 * * *

(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.

* * * * *

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

As provided in paragraph (a) of this section, a bank or savings association 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 or savings association 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 or savings association 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 bank or savings association, 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 or savings association 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 or savings association 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 or savings association 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 or savings association directly to small businesses or small farms (either as defined in a government plan, program, or initiative or in § 25.12). 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 § 25.12. 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 or savings association 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

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that meet the definition of small business or small farm in § 25.12.

(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 Insurance, 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 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 benefitting 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 benefitting 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 benefitting 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 appropriate Federal banking agency 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 benefitting 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 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 or savings association, including by an MDI, WDI, or CDFI bank or savings association evaluated under this part or 12 CFR part 228 or 345, in cooperation with an MDI, WDI, LICU, or CDFI. Such activities do not include investments by an MDI, WDI, or CDFI bank or savings association in itself.

(l) *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.

EDITORIAL NOTE: At 89 FR 7167, Feb. 1, 2024, § 25.13 was amended in part by removing “CDFI bank or savings associations” wherever it appears in paragraph (k) and adding “CDFI bank” in its place; however, the amendment could not be incorporated due to inaccurate amendatory instruction.

§ 25.14 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 § 25.13.

(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 or savings association subject to this part may request that the appropriate Federal banking agency 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 appropriate Federal banking agency.

(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 appropriate Federal banking agency considers:

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

(B) Any other information that the appropriate Federal banking agency 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 appropriate Federal banking agency consults with the Board and the FDIC or the Board and the OCC, as appropriate, regarding the eligibility of a loan, investment, or service.

(iii) The appropriate Federal banking agency 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 appropriate Federal banking agency notifies the requestor and the Board and the FDIC or the Board and the OCC, as appropriate, in writing of any determination under paragraph (b)(2) of this section, as well as the rationale for such determination.

§ 25.15 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 § 25.24, the Community Development Services Test in § 25.25, and the Community Development Financing Test for Limited Pur-

pose Banks and Savings Associations in § 25.26, the appropriate Federal banking agency evaluates the extent to which a bank's or savings association'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 appropriate Federal banking agency evaluates the impact and responsiveness of a bank's or savings association's community development loans, community development investments, or community development services based on paragraph (b) of this section, and may take into account performance context information pursuant to § 25.21(d).

(b) *Impact and responsiveness review factors.* Factors considered in evaluating the impact and responsiveness of a bank's or savings association'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;

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(11) Reflects bank or savings association 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

SOURCE: 89 FR 7165, Feb. 1, 2024, unless otherwise noted.

§ 25.16 Facility-based assessment areas.

(a) *In general.* A bank or savings association must delineate one or more facility-based assessment areas within which the appropriate Federal banking agency evaluates the bank's or savings association's record of helping to meet the credit needs of its entire community pursuant to the performance tests and strategic plan described in § 25.21.

(b) *Geographic requirements for facility-based assessment areas.* (1) Except as provided in paragraph (b)(3) of this section, a bank's or savings association's facility-based assessment areas must include each county in which a bank or savings association has a main office, a branch, or a deposit-taking remote service facility, as well as the surrounding counties in which the bank or savings association 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 or savings association'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 non-metropolitan area of a State.

(3) An intermediate bank or savings association or a small bank or savings association 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 or savings association'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 or savings association has arbitrarily excluded low- or moderate-income census tracts from a facility-based assessment area, the appropriate Federal banking agency takes into account the bank's or savings association's capacity and constraints, including its size and financial condition.

(d) *Military banks or savings associations.* Notwithstanding the requirements of this section, a military bank or savings association 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 appropriate Federal banking agency uses the facility-based assessment areas delineated by a bank or savings association in its evaluation of the bank's or savings association's CRA performance unless the appropriate Federal banking agency determines that the facility-based assessment areas do not comply with the requirements of this section.

§ 25.17 Retail lending assessment areas.

(a) *In general.* (1) Based upon the criteria described in paragraphs (b) and (c) of this section, a large bank or savings association must delineate retail lending assessment areas within which the appropriate Federal banking agency evaluates the bank's or savings association's record of helping to meet the credit needs of its entire community pursuant to § 25.22.

(2) A large bank or savings association is not required to delineate retail lending assessment areas for a particular calendar year if, in the prior two calendar years, the large bank or savings association 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 or savings association 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 or savings association 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 appropriate Federal banking agency 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 or savings association'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 or savings association's facility-based assessment areas; or

(ii) All of the counties in the non-metropolitan 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 or savings association's facility-based assessment areas; and

(B) Any counties in which the large bank or savings association did not originate any closed-end 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 or savings association must delineate, for a particular calendar year, a retail lending assessment area in any MSA or in the non-

metropolitan 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 appropriate Federal banking agency uses the retail lending assessment areas delineated by a large bank or savings association in its evaluation of the bank's or savings association's closed-end home mortgage lending and small business lending performance unless the appropriate Federal banking agency determines that the retail lending assessment areas do not comply with the requirements of this section.

§ 25.18 Outside retail lending areas.

(a) *In general*—(1) *Large banks or savings associations.* The appropriate Federal banking agency evaluates a large bank's or savings association's record of helping to meet the credit needs of its entire community in its outside retail lending area pursuant to § 25.22. However, the appropriate Federal banking agency will not evaluate a large bank or savings association 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 or savings associations.* The appropriate Federal banking agency evaluates the record of an intermediate bank or savings association, or a small bank or savings association 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 § 25.22, for a particular calendar year, if:

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

(ii) In the prior two calendar years, the bank or savings association originated or purchased outside the bank's or savings association's facility-based assessment areas more than 50 percent of the bank's or savings association's

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home mortgage loans, multifamily loans, small business loans, small farm loans, and automobile loans if automobile loans are a product line for the bank or savings association, 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 or savings association's outside retail lending area consists of the nationwide area, excluding:

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

(ii) Any county in a nonmetropolitan area in which the bank or savings association 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 or savings association.

(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.

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

The appropriate Federal banking agency may consider a bank's or savings association's community development loans, community development investments, and community development services provided outside of its facility-based assessment areas, as provided in this part.

§ 25.20 [Reserved]

Subpart C—Standards for Assessing Performance

SOURCE: 89 FR 7165, Feb. 1, 2024, unless otherwise noted.

§ 25.21 Evaluation of CRA performance in general.

(a) *Application of performance tests and strategic plans*—(1) *Large banks or savings associations.* To evaluate the performance of a large bank or savings as-

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sociation, the appropriate Federal banking agency applies the Retail Lending Test in § 25.22, the Retail Services and Products Test in § 25.23, the Community Development Financing Test in § 25.24, and the Community Development Services Test in § 25.25.

(2) *Intermediate banks or savings associations*—(i) *In general.* To evaluate the performance of an intermediate bank or savings association, the appropriate Federal banking agency applies the Retail Lending Test in § 25.22 and either the Intermediate Bank and Savings Association Community Development Test in § 25.30(a)(2) or, at the bank's or savings association's option, the Community Development Financing Test in § 25.24.

(ii) *Intermediate banks or savings associations evaluated under § 25.24.* If an intermediate bank or savings association opts to be evaluated pursuant to the Community Development Financing Test in § 25.24, the appropriate Federal banking agency evaluates the intermediate bank or savings association for the evaluation period preceding the bank's or savings association's next CRA examination pursuant to the Community Development Financing Test in § 25.24 and continues evaluations pursuant to this performance test for subsequent evaluation periods until the bank or savings association opts out. If an intermediate bank or savings association opts out of the Community Development Financing Test in § 25.24, the appropriate Federal banking agency reverts to evaluating the bank or savings association pursuant to the Intermediate Bank and Savings Association Community Development Test in § 25.30(a)(2), starting with the evaluation period preceding the bank's or savings association's next CRA examination.

(iii) *Additional consideration.* An intermediate bank or savings association may request additional consideration pursuant to § 25.30(b).

(3) *Small banks or savings associations*—(i) *In general.* To evaluate the performance of a small bank or savings association, the appropriate Federal banking agency applies the Small Bank and Savings Association Lending Test in § 25.29(a)(2), unless the bank or

savings association opts to be evaluated pursuant to the Retail Lending Test in § 25.22.

(ii) *Small banks or savings associations evaluated under the Retail Lending Test.* If a small bank or savings association opts to be evaluated pursuant to the Retail Lending Test in § 25.22, the following applies:

(A) The appropriate Federal banking agency evaluates the small bank or savings association using the same provisions used to evaluate intermediate banks or savings associations pursuant to the Retail Lending Test in § 25.22.

(B) The appropriate Federal banking agency evaluates the small bank or savings association for the evaluation period preceding the bank's or savings association's next CRA examination pursuant to the Retail Lending Test in § 25.22 and continues evaluations under this performance test for subsequent evaluation periods until the bank or savings association opts out. If a small bank or savings association opts out of the Retail Lending Test in § 25.22, the appropriate Federal banking agency reverts to evaluating the bank or savings association pursuant to the Small Bank and Savings Association Lending Test in § 25.29(a)(2), starting with the evaluation period preceding the bank's or savings association's next CRA examination.

(iii) *Additional consideration.* A small bank or savings association may request additional consideration pursuant to § 25.29(b).

(4) *Limited purpose banks or savings associations—(i) In general.* The appropriate Federal banking agency evaluates a limited purpose bank or savings association pursuant to the Community Development Financing Test for Limited Purpose Banks and Savings Associations in § 25.26.

(ii) *Additional consideration.* A limited purpose bank or savings association may request additional consideration pursuant to § 25.26(b)(2).

(5) *Military banks or savings associations—(i) In general.* The appropriate Federal banking agency evaluates a military bank or savings association pursuant to the applicable performance tests described in paragraph (a) of this section.

(ii) *Evaluation approach for military banks or savings associations operating under § 25.16(d).* If a military bank or savings association delineates the entire United States and its territories as its sole facility-based assessment area pursuant to § 25.16(d), the appropriate Federal banking agency evaluates the bank or savings association exclusively at the institution level based on its performance in its sole facility-based assessment area.

(6) *Banks and savings associations operating under a strategic plan.* The appropriate Federal banking agency evaluates the performance of a bank or savings association that has an approved strategic plan pursuant to § 25.27.

(b) *Loans, investments, services, and products of operating subsidiaries and other affiliates—(1) In general.* In the performance evaluation of a bank or savings association, the appropriate Federal banking agency considers the loans, investments, services, and products of a bank's or savings association's operating 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 228 or 345.

(2) *Loans, investments, services, and products of operating subsidiaries.* The appropriate Federal banking agency considers the loans, investment, services, and products of a bank's or savings association's operating subsidiaries under this part, unless an operating subsidiary is independently subject to the CRA. The bank or savings association must collect, maintain, and report data on the loans, investments, services, and products of its operating subsidiaries as provided in § 25.42(c).

(3) *Loans, investments, services, and products of other affiliates.* The appropriate Federal banking agency considers the loans, investments, services, and products of affiliates of a bank or savings association that are not operating subsidiaries, at the bank's or savings association's option, subject to the following:

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

(ii) The bank or savings association collects, maintains, and reports data

on the loans, investments, services, or products of the affiliate as provided in § 25.42(d).

(iii) Pursuant to the Retail Lending Test in § 25.22, if a bank or savings association opts to have the appropriate Federal banking agency 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 or savings association's affiliates in a particular Retail Lending Test Area, the appropriate Federal banking agency 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 or savings association's affiliates in the particular Retail Lending Test Area.

(iv) Pursuant to the Retail Lending Test in § 25.22, if a large bank or savings association opts to have the appropriate Federal banking agency consider the closed-end home mortgage loans or small business loans that are originated or purchased by any of the bank's or savings association's affiliates in any Retail Lending Test Area, the appropriate Federal banking agency 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 or savings association's affiliates in the nationwide area when delineating retail lending assessment areas pursuant to § 25.17(c).

(v) Pursuant to the Community Development Financing Test in § 25.24, the Community Development Financing Test for Limited Purpose Banks and Savings Associations in § 25.26, the Intermediate Bank and Savings Association Community Development Test in § 25.30(a)(2), or pursuant to an approved strategic plan in § 25.27, the appropriate Federal banking agency will consider, at the bank's or savings association's option, community development loans or community development investments that are originated, purchased, refinanced, or renewed by one or more of the bank's or savings association'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 or savings association invests in or participates in a consortium that originates, purchases, refinances, or renews community development loans or community development investments, or if a bank or savings association invests in a third party that originates, purchases, refinances, or renews community development loans or community development investments, the appropriate Federal banking agency may consider, at the bank's or savings association'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 or savings association must collect, maintain, and report the data pertaining to the community development loans and community development investments as provided in § 25.42(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 or savings association 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 § 25.27(h), the appropriate Federal banking agency 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 or savings association's institutional capacity or constraints, including the size and financial condition of

the bank or savings association, safety and soundness limitations, or any other bank-specific factors that significantly affect the bank's or savings association'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 or savings association'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 savings association 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 or savings association regarding the bank's or savings association's business strategy and product offerings;

(6) The bank's or savings association's public file, as provided in § 25.43, including any written comments about the bank's or savings association's CRA performance submitted to the bank or savings association or the appropriate Federal banking agency and the bank's or savings association's responses to those comments; and

(7) Any other information deemed relevant by the appropriate Federal banking agency.

(e) *Conclusions and ratings*—(1) *Conclusions*. The appropriate Federal banking agency assigns conclusions to a large bank's or savings association's or limited purpose bank's or savings association's performance on the applicable tests described in paragraph (a) of this section pursuant to § 25.28 and appendix C to this part. The appropriate Federal banking agency assigns conclusions to a small bank's or savings association's or intermediate bank's or savings association's performance on the applicable tests described in paragraph (a) of this section pursuant to § 25.28 and appendices C and E to this part. The appro-

priate Federal banking agency assigns conclusions to a bank or savings association that has an approved strategic plan pursuant to § 25.28 and paragraph g of appendix C to this part.

(2) *Ratings*. The appropriate Federal banking agency assigns an overall CRA performance rating to a bank or savings association in each State or multistate MSA, as applicable, and for the institution pursuant to § 25.28 and appendices D and E to this part.

(f) *Safe and sound operations*. The CRA and this part do not require a bank or savings association to originate or purchase loans or investments or to provide services that are inconsistent with safe and sound banking practices, including underwriting standards. Banks and savings associations 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.

§ 25.22 Retail lending test.

(a) *Retail Lending Test*—(1) *In general*. Pursuant to § 25.21, the Retail Lending Test evaluates a bank's or savings association's record of helping to meet the credit needs of its entire community through the bank's or savings association'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 or savings association's record of helping to meet the credit needs of its entire community through the bank's or savings association's origination and purchase of automobile loans if the bank or savings association is a majority automobile lender. A bank or savings association 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 appropriate Federal banking agency evaluates whether a bank or savings association 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 appropriate Federal banking agency evaluates the geographic and borrower distributions of each of a bank's or savings association'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 appropriate Federal banking agency 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 appropriate Federal banking agency's determination of a bank's or savings association's Retail Lending Test conclusion for a Retail Lending Test Area is informed by the bank's or savings association's Retail Lending Test recommended conclusion for the Retail Lending Test Area, performance context factors provided in § 25.21(d), and the additional factors provided in paragraph (g) of this section.

(5) *Exceptions*—(i) *No major product line.* If a bank or savings association has no major product line in a facility-based assessment area, the appropriate Federal banking agency assigns the bank or savings association 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 § 25.21(d), and the additional factors provided in paragraph (g) of this section.

(ii) *Banks and savings associations that lack an acceptable basis for not meeting the Retail Lending Volume Threshold.* The appropriate Federal banking agency assigns a Retail Lending Test conclusion for a facility-based assessment area in which a bank or savings association 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 or savings association meets or surpasses the Retail Lending Volume Threshold in a facility-based assessment area if the bank or savings association has a Bank Volume Metric of 30 percent or greater of the Market Volume Benchmark for that facility-based assessment area. The appropriate Federal banking agency calculates the Bank Volume Metric and the Market Volume Benchmark pursuant to section I of appendix A to this part.

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

(3) *Banks and savings associations that do not meet the Retail Lending Volume Threshold in a facility-based assessment area*—(i) *Acceptable basis factors.* If a bank or savings association does not meet the Retail Lending Volume Threshold in a facility-based assessment area pursuant to paragraph (c)(1) of this section, the appropriate Federal banking agency determines whether the bank or savings association has an acceptable basis for not meeting the Retail Lending Volume Threshold in the facility-based assessment area by considering:

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

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

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

(D) Safety and soundness limitations;

(E) The bank's or savings association's business strategy; and

(F) Any other factors that limit the bank's or savings association's ability

to lend in the facility-based assessment area.

(ii) *Banks and savings associations 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 appropriate Federal banking agency determines that a bank or savings association has an acceptable basis for not meeting the Retail Lending Volume Threshold in a facility-based assessment area, the appropriate Federal banking agency develops a Retail Lending Test recommended conclusion for the facility-based assessment area in the same manner as for a bank or savings association that meets or surpasses the Retail Lending Volume Threshold under paragraph (c)(2) of this section.

(iii) *Banks and savings associations that lack an acceptable basis for not meeting the Retail Lending Volume Threshold in a facility-based assessment area—(A) Large banks or savings associations.* If, after reviewing the factors in paragraph (c)(3)(i) of this section, the appropriate Federal banking agency determines that a large bank or savings association lacks an acceptable basis for not meeting the Retail Lending Volume Threshold in a facility-based assessment area, the appropriate Federal banking agency assigns the bank or savings association 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 appropriate Federal banking agency considers:

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

(2) The bank’s or savings association’s distribution analysis pursuant to paragraphs (d) through (f) of this section;

(3) Performance context factors provided in § 25.21(d); and

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

(B) *Intermediate or small banks or savings associations.* If, after reviewing the

factors in paragraph (c)(3)(i) of this section, the appropriate Federal banking agency determines that an intermediate bank or savings association, or a small bank or savings association 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 appropriate Federal banking agency develops a Retail Lending Test recommended conclusion for the facility-based assessment area pursuant to paragraphs (d) through (f) of this section. The appropriate Federal banking agency’s determination of a bank’s or savings association’s Retail Lending Test conclusion for the facility-based assessment area is informed by:

(1) The bank’s or savings association’s Retail Lending Test recommended conclusion for the facility-based assessment area;

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

(3) Performance context factors provided in § 25.21(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 appropriate Federal banking agency 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 or savings association’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 or savings association’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 or savings association’s facility-based assessment areas and, as applicable, outside retail lending area; and

(iv) Automobile loans in a bank's or savings association'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 or savings association's loans in that product line comprise 15 percent or more of the bank's or savings association's loans across all of the bank's or savings association'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 or savings association delineates a retail lending assessment area based on its closed-end home mortgage loans as determined by the standard in § 25.17(c)(1); and

(B) Small business loans are a major product line in any calendar year in the evaluation period in which the bank or savings association delineates a retail lending assessment area based on its small business loans as determined by the standard in § 25.17(c)(2).

(e) *Retail Lending Test distribution analysis.* The appropriate Federal banking agency evaluates a bank's or savings association's Retail Lending Test performance in each of its Retail Lending Test Areas by considering the geographic and borrower distributions of a bank's or savings association'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 appropriate Federal banking agency compares a bank's or savings association's geographic and borrower distributions to performance ranges based on the applicable market and community benchmarks, as provided in para-

graph (f) of this section and section V of appendix A to this part.

(ii) *Distribution analysis for automobile loans.* For automobile loans, the appropriate Federal banking agency compares a bank's or savings association's geographic and borrower distributions to the applicable community benchmarks, as provided in 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency develops a Retail Lending Test recommended conclusion for each of a bank's or savings association'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 appropriate Federal banking agency 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 appropriate Federal banking agency evaluates the bank's or savings association'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 appropriate Federal banking agency evaluates the bank's or savings association'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 appropriate Federal banking agency evaluates the bank's or savings association'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 appropriate Federal banking agency evaluates the bank's or savings association'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 appropriate Federal banking agency 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 appropriate Federal banking agency:

(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 appropriate Federal banking agency 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 appropriate Federal banking agency's determination of a bank's or savings association's Retail Lending Test conclusion for a Retail Lending Test Area:

(1) Information indicating that a bank or savings association 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 appropriate Federal banking agency does not consider such loans in the bank's or savings association's performance evaluation;

(2) The dispersion of a bank's or savings association'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 appropriate Federal banking agency from calculating a Retail Lending Test recommended conclusion. If unable to calculate a Retail Lending Test recommended conclusion, the appropriate Federal banking agency assigns a Retail Lending Test conclusion based on consideration of the relevant available data;

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

(6) A bank's or savings association'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 or savings association'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 § 25.28, section VIII of appendix A to this part,

and appendix C to this part, the appropriate Federal banking agency assigns conclusions for a bank's or savings association'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 appropriate Federal banking agency 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 § 25.21(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 appropriate Federal banking agency assigns a Retail Lending Test conclusion for a facility-based assessment area in which a bank or savings association has no major product line based on the bank's or savings association's performance on the Retail Lending Volume Screen pursuant to paragraph (c) of this section, performance context information provided in § 25.21(d), and the additional factors provided in paragraph (g) of this section.

(B) *Facility-based assessment areas in which a bank or savings association lacks an acceptable basis for not meeting the Retail Lending Volume Threshold.* The appropriate Federal banking agency assigns a Retail Lending Test conclusion for a facility-based assessment area in which a bank or savings association 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 § 25.28 and appendix D to this part, the appropriate Federal banking agency incorporates a bank's or savings association's Retail Lending Test conclusions into its State or multistate MSA ratings, as applicable, and its institution rating.

EFFECTIVE DATE NOTE: At 89 FR 7167, Feb. 1, 2024, § 25.22 was amended by removing the term "Businesses" from paragraphs (e)(2)(ii)(C) and (D) and adding "Small businesses" in its place; and removing the term "Farms" from paragraphs (e)(2)(ii)(E) and (F) and adding "Small farms" in its place, delayed indefinitely.

§ 25.23 Retail services and products test.

(a) *Retail Services and Products Test—*

(1) *In general.* Pursuant to § 25.21, the Retail Services and Products Test evaluates the availability of a bank's or savings association's retail banking services and retail banking products and the responsiveness of those services and products to the credit needs of the bank's or savings association's entire community, including low- and moderate-income individuals, families, or households, low- and moderate-income census tracts, small businesses, and small farms. The appropriate Federal banking agency evaluates the bank's or savings association's retail banking services, as described in paragraph (b) of this section, and the bank's or savings association'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 appropriate Federal banking agency considers services under the Community Development Services Test in § 25.25, the appropriate Federal banking agency 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 or savings association's retail banking services, the appropriate Federal banking agency considers a bank's or savings association's branch availability and services provided at branches, remote service facility availability, and digital delivery systems and other delivery systems, as follows:

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

(ii) *Remote service facility availability.* The appropriate Federal banking agency considers the remote service facility availability of banks or savings associations 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 appropriate Federal banking agency considers the digital delivery systems and other delivery systems of banks or savings associations pursuant to paragraph (b)(4) of this section, as follows:

(A) The appropriate Federal banking agency considers the digital delivery systems and other delivery systems of the following banks or savings associations:

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

(2) Large banks or savings associations 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 or savings association 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 appropriate Federal banking agency considers the bank's or savings association's digital delivery systems and other delivery systems at the bank's or savings association's option.

(2) *Branch availability and services.* The appropriate Federal banking agency evaluates a bank's or savings association's branch availability and services in a facility-based assessment area based on the following:

(i) *Branch distribution.* The appropriate Federal banking agency considers a bank's or savings association's branch distribution using the following:

(A) *Branch distribution metrics.* The appropriate Federal banking agency considers the number and percentage of the bank's or savings association's branches within low-, moderate-, middle-, and upper-income census tracts.

(B) *Benchmarks.* The appropriate Federal banking agency'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 appropriate Federal banking agency 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 appropriate Federal banking agency considers a bank's or savings association'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 appropriate Federal banking agency 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.

(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 or savings association's facility-based assessment areas.

(3) *Remote service facility availability.* The appropriate Federal banking agency evaluates a bank's or savings association's remote service facility availability in a facility-based assessment area based on the following:

(i) *Remote service facility distribution.* The appropriate Federal banking agency considers a bank's or savings association's remote service facility distribution using the following:

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

(B) *Benchmarks.* The appropriate Federal banking agency'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 appropriate Federal banking agency 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 appropriate Federal banking agency considers whether the bank or savings association 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 appropriate Federal banking agency evaluates the availability and responsiveness of a bank's or savings association'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 or savings association'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 or savings association 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 appropriate Federal banking agency evaluates a bank's or savings association's retail banking products offered in the bank's or savings association's facility-based assessment areas and nationwide, as applicable, at the institution level as follows:

(i) *Credit products and programs.* The appropriate Federal banking agency evaluates a bank's or savings association's credit products and programs pursuant to paragraph (c)(2) of this section.

(ii) *Deposit products.* The appropriate Federal banking agency evaluates a bank's or savings association's deposit products pursuant to paragraph (c)(3) of this section as follows:

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

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

(2) *Credit products and programs.* The appropriate Federal banking agency evaluates whether a bank's or savings association's credit products and programs are, consistent with safe and sound operations, responsive to the credit needs of the bank's or savings association'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 appropriate Federal banking agency evaluates the availability and usage of a bank's or savings association'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 appropriate Federal banking agency 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 or savings association 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 appropriate Federal banking agency considers the usage of a bank's or savings association'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 or savings association 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 or savings association provides that demonstrates usage of the bank's or savings association'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 § 25.28 and appendix C to this part, the appropriate Federal banking agency assigns conclusions for a bank's or savings association'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 appropriate Federal banking agency may consider performance context information as provided in § 25.21(d). The evaluation of a bank's or savings association's retail banking products under paragraph (c) of this section may only contribute positively to the bank's or savings association's Retail Services and Products Test conclusion.

(2) *Ratings*. Pursuant to § 25.28 and appendix D to this part, the appropriate Federal banking agency incorporates a bank's or savings association's Retail Services and Products Test conclusions into its State or multistate MSA ratings, as applicable, and its institution rating.

§ 25.24 Community development financing test.

(a) *Community Development Financing Test*—(1) *In general*. Pursuant to § 25.21, the Community Development Financing Test evaluates the bank's or savings association'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 or savings association's community development financing performance).

(2) *Allocation*. The appropriate Federal banking agency 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 appropriate Federal banking agency evaluates a bank's or savings association'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 or savings association'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 or savings association's community development loans and community development investments that benefit or serve a facility-based assessment area compared to deposits in the bank or savings association that are located in the facility-based assessment area, calculated pursuant to paragraph II.a of appendix B to this part.

(2) *Benchmarks*. The appropriate Federal banking agency 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 or savings association'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 or savings association'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 or savings association'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 appropriate Federal banking agency 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 appropriate Federal banking agency reviews the impact and responsiveness of a bank's or savings association's community development loans and community development investments that benefit or serve a facility-based assessment area, as provided in § 25.15.

(c) *State evaluation.* The appropriate Federal banking agency evaluates a bank's or savings association's community development financing performance in a State, pursuant to §§ 25.19 and 25.28(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 appropriate Federal banking agency considers the weighted average of the performance scores corresponding to the bank's or savings association'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 appropriate Federal banking agency considers a bank's or savings association'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 or savings association'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 or savings association's community development loans and community development investments that benefit or serve all or part of a State compared to deposits in the bank or savings association that are located in the State, calculated pursuant to paragraph II.d of appendix B to this part.

(ii) *Benchmarks.* The appropriate Federal banking agency 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 or savings association'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 appropriate Federal banking agency reviews the impact and responsiveness of the bank's or savings association's community development loans and community development investments that benefit or serve a State, as provided in § 25.15.

(d) *Multistate MSA evaluation.* The appropriate Federal banking agency evaluates a bank's or savings association's community development financing performance in a multistate MSA, pursuant to §§ 25.19 and 25.28(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 appropriate Federal banking agency considers the weighted average of the performance scores corresponding to the bank's or savings association'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 appropriate Federal banking agency considers a bank's or savings association'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 or savings association'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 Bank Multistate MSA Community Development Financing Metric measures the dollar volume of a bank's or savings association's community development loans and community development investments that benefit or serve a multistate MSA compared to deposits in the bank or savings association located in the multistate MSA, calculated pursuant to paragraph II.g of appendix B to this part.

(ii) *Benchmarks.* The appropriate Federal banking agency 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 or savings association'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 appropriate Federal banking agency reviews the impact and responsiveness of the bank's or savings association's community development loans and community development investments that benefit or serve a multistate MSA, as provided in § 25.15.

(e) *Nationwide area evaluation.* The appropriate Federal banking agency

evaluates a bank's or savings association's community development financing performance in the nationwide area, pursuant to § 25.19, 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 performance in the nationwide area.* The appropriate Federal banking agency considers the weighted average of the performance scores corresponding to the bank's or savings association'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 appropriate Federal banking agency considers a bank's or savings association'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 or savings association'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 or savings association'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 or savings association located in the nationwide area, calculated pursuant to paragraph II.j of appendix B to this part.

(ii) *Community Development Financing Benchmarks.* The appropriate Federal banking agency 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 or savings association's Assessment Area Community Development Financing Benchmarks for each facility-based assessment area within the 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 or savings association 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 or savings association'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 or savings association 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 or savings association that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years, the appropriate Federal banking agency 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 or savings association'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 appropriate Federal banking agency reviews the impact and responsiveness of the bank's or savings association's community development loans and community development investments that benefit or serve the nationwide area, as provided in § 25.15.

(f) *Community Development Financing Test performance conclusions and ratings*—(1) *Conclusions.* Pursuant to § 25.28 and appendix C to this part, the appropriate Federal banking agency assigns conclusions for a bank's or savings association's Community Development Financing 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 appropriate Federal banking agency may consider performance context information as provided in § 25.21(d).

(2) *Ratings.* Pursuant to § 25.28 and appendix D to this part, the appropriate Federal banking agency incorporates a bank's or savings association's Community Development Financing Test conclusions into its State or multistate MSA ratings, as applicable, and its institution rating.

§ 25.25 Community development services test.

(a) *Community Development Services Test*—(1) *In general.* Pursuant to § 25.21, the Community Development Services Test evaluates a bank's or savings association's record of helping to meet the community development services needs of its entire community.

(2) *Allocation.* The appropriate Federal banking agency considers information provided by the bank or savings association 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 appropriate Federal banking agency evaluates a bank's or savings association'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 § 25.13(b) through (l);

(2) The capacities in which a bank's or savings association'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 or savings association;

(4) Any other evidence demonstrating that the bank's or savings association's community development services are responsive to community development needs, such as the 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 or savings association's community development services that benefit or serve the facility-based assessment area, as provided in § 25.15.

(c) *State, multistate MSA, or nationwide area evaluation.* The appropriate Federal banking agency evaluates a bank's or savings association'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 appropriate Federal banking agency considers the weighted average of the performance scores corresponding to the bank's or savings association'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 appropriate Federal banking agency 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 or savings association's community development services performed outside of its facility-based assessment areas pursuant to § 25.19, 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 § 25.28 and appendix C to this part, the appropriate Federal banking agency assigns conclusions for a bank's or savings association'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 appropriate Federal banking agency may consider performance context information as provided in § 25.21(d).

(2) *Ratings.* Pursuant to § 25.28 and appendix D to this part, the appropriate Federal banking agency incorporates a bank's or savings association's Community Development Services Test conclusions into its State or multistate MSA ratings, as applicable, and its institution rating.

§ 25.26 Limited purpose banks and savings associations.

(a) *Bank and savings association request for designation as a limited purpose bank or savings association.* To receive a designation as a limited purpose bank or savings association, a bank or savings association must file a written request with the appropriate Federal banking agency at least 90 days prior to the proposed effective date of the designation. If the appropriate Federal banking agency approves the designation, it remains in effect until the bank or savings association requests revocation of the designation or until one year after the appropriate Federal banking agency notifies a limited purpose bank or savings association that the appropriate Federal banking agen-

cy has revoked the designation on the appropriate Federal banking agency's own initiative.

(b) *Performance evaluation—(1) In general.* To evaluate a limited purpose bank or savings association, the appropriate Federal banking agency applies the Community Development Financing Test for Limited Purpose Banks and Savings Associations as described in paragraphs (c) through (f) of this section.

(2) *Additional consideration—(i) Community development services.* The appropriate Federal banking agency may adjust a limited purpose bank's or savings association's institution rating from "Satisfactory" to "Outstanding" where a bank or savings association requests and receives additional consideration for services that would qualify under the Community Development Services Test in § 25.25.

(ii) *Additional consideration for low-cost education loans.* A limited purpose bank or savings association 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 or savings association's overall institution rating.

(c) *Community Development Financing Test for Limited Purpose Banks and Savings Associations—(1) In general.* Pursuant to § 25.21, the Community Development Financing Test for Limited Purpose Banks and Savings Associations evaluates a limited purpose bank's or savings association'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 or savings association's community development financing performance).

(2) *Allocation.* The appropriate Federal banking agency 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 appropriate Federal banking agency evaluates a limited purpose bank's or savings association's community development financing performance in a facility-based assessment

area and assigns a conclusion in the facility-based assessment area based on the appropriate Federal banking agency's:

(1) Consideration of the dollar volume of the limited purpose bank's or savings association'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 or savings association's community development loans and community development investments that benefit or serve a facility-based assessment area, as provided in § 25.15.

(e) *State or multistate MSA evaluation.* The appropriate Federal banking agency evaluates a limited purpose bank's or savings association's community development financing performance in each State or multistate MSA, as applicable pursuant to §§ 25.19 and 25.28(c), and assigns a conclusion for the bank's or savings association's performance in the State or multistate MSA based on the appropriate Federal banking agency'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 or savings association'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 or savings association'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 § 25.15.

(f) *Nationwide area evaluation.* The appropriate Federal banking agency evaluates a limited purpose bank's or savings association's community development financing performance in the nationwide area, pursuant to § 25.19, and assigns a conclusion for the institution based on the appropriate Federal banking agency's consideration of the following two components:

(1) *Component one—facility-based assessment area performance.* The limited purpose bank's or savings association'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 or savings association'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 or savings association'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 or savings association's community development loans and community development investments that benefit or serve all or part of the nationwide area compared to the bank's or savings association's assets calculated pursuant to paragraph III.a of appendix B to this part.

(ii) *Community Development Financing Benchmarks.* The appropriate Federal banking agency 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 or savings associations pursuant to paragraph (a) of this section or designated as limited purpose banks or savings associations pursuant to 12 CFR 228.26(a) or 345.26(a) reported pursuant to § 25.42(b) or 12 CFR 228.42(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 § 25.42(b) or 12 CFR 228.42(b) or 345.42(b) compared to assets for those depository institutions, calculated pursuant to paragraph III.c of appendix B to this part.

(iii) *Limited Purpose Bank and savings association Community Development Investment Metric.* For a limited purpose bank or savings association 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 or savings association's community development investments that benefit or serve all or part of the nationwide area, excluding mortgage-backed securities, compared to the bank's or savings association'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 or savings association that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years, the appropriate Federal banking agency 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 or savings association's Community Development Financing Test for Limited Purpose Banks and Savings Associations 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 appropriate Federal banking agency reviews the impact and responsiveness of the bank's or savings association's community development loans and community development investments that benefit or serve the nationwide area, as provided in § 25.15.

(g) *Community Development Financing Test for Limited Purpose Banks and Savings Associations performance conclusions and ratings—(1) Conclusions.* Pursuant to § 25.28 and appendix C to this part, the appropriate Federal banking agency assigns conclusions for a limited purpose bank's or savings association's Community Development Financing Test for Limited Purpose Banks and Savings Associations 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 appropriate Federal banking agency may consider performance context information as provided in § 25.21(d).

(2) *Ratings.* Pursuant to § 25.28 and appendix D to this part, the appropriate Federal banking agency incorporates a limited purpose bank's or savings association's Community Development Financing Test for Limited Purpose Banks and Savings Associations conclusions into its State or multistate MSA ratings, as applicable, and its institution rating.

§ 25.27 Strategic plan.

(a) *Alternative election.* Pursuant to § 25.21, the appropriate Federal banking agency evaluates a bank's or savings association's record of helping to meet the credit needs of its entire community under a strategic plan, if:

(1) The appropriate Federal banking agency has approved the plan pursuant to this section;

(2) The plan is in effect; and

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

(b) *Data requirements.* The appropriate Federal banking agency's approval of a

plan does not affect the bank's or savings association's obligation, if any, to collect, maintain, and report data as required by § 25.42.

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

(ii) *Affiliates*—(A) *Optional inclusion of other affiliates' loans, investments, services, and products*. Consistent with § 25.21(b)(3), a bank or savings association may include loans, investments, services, and products of affiliates of a bank or savings association that are not operating 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 or savings association, 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 or savings association'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 savings association, or among affiliated banks or savings associations, must reflect a reasonable basis for the allocation and may not be for the sole or primary purpose of inappropriately enhancing any bank's or savings association's CRA evaluation.

(d) *Justification and appropriateness of plan election*—(1) *Justification requirements*. A bank's or savings association's plan must provide a justification that demonstrates the need for the following aspects of a plan due to the bank's or savings association'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 or savings association'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 or savings association pursuant to any aspect of a plan in paragraph (d)(1) of this section would more meaningfully reflect a bank's or savings association'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 appropriate Federal banking agency for approval pursuant to paragraph (h) of this section, a bank or savings association must:

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

(ii) Once the bank or savings association 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 appropriate Federal banking agency's website and by publishing the initial draft plan on the bank's or savings association's website, if the bank or savings association 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 or savings association, 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 sec-

tion a means by which members of the public can electronically submit and mail comments to the bank or savings association on its initial draft plan.

(2) *Availability of initial draft plan.* During the period when the bank or savings association is formally soliciting public comment on its initial draft plan, the bank or savings association must make copies of the initial draft plan available for review at no cost at all offices of the bank or savings association 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 or savings association must submit its draft plan to the appropriate Federal banking agency at least 90 days prior to the proposed effective date of the plan. The bank or savings association 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 or savings association contacted and how the bank or savings association gathered information;

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

(3) If the bank or savings association 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 or savings association 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 or savings association 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 or savings association 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 or savings association, considering public comment and the bank's or savings association's capacity and constraints, product offerings, and business strategy. As applicable, a bank or savings association 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 or savings association that originates or purchases loans in a product line evaluated pursuant to the Retail Lending Test in § 25.22 or originates or purchases loans evaluated pursuant to the Small Bank and Savings Association Lending Test in § 25.29(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 or savings association that maintains delivery systems evaluated pursuant to the Retail Services and Products Test in § 25.23(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 or savings association that does not maintain delivery systems evaluated pursuant to the Retail Services and Products Test in § 25.23(b) may include retail banking products components in § 25.23(c) and accompanying annual measurable goals in its plan.

(C) A bank or savings association other than a large bank or savings association 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 or savings association must include the Community Development Financing Test in § 25.24 in its plan.

(B) An intermediate bank or savings association must include either the Community Development Financing Test in § 25.24 or the Intermediate Bank and Savings Association Community Development Test in § 25.30(a)(2) in its plan.

(C) A limited purpose bank or savings association must include the Community Development Financing Test for Limited Purpose Banks and Savings Associations in § 25.26 in its plan.

(D) A small bank or savings association 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 or savings association that are covered by the plan.

(A) A large bank or savings association must include the Community Development Services Test in § 25.25 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 or savings association has employees.

(B) A bank or savings association other than a large bank or savings association 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 or savings association that the appropriate Federal banking agency would otherwise evaluate pursuant to the Small Bank and Savings Association Lending Test in § 25.29(a)(2):

(1) A bank or savings association 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 or savings association's facility-based assessment area(s).

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

(B) For a bank or savings association the appropriate Federal banking agency would otherwise evaluate pursuant to the Retail Lending Test in § 25.22:

(1) A bank or savings association 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 or savings association 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 or savings association 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 or savings association may add annual measurable goals for any component of the Retail Services and Products Test in § 25.23.

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

(C) A large bank or savings association 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 or savings association other than a large bank or savings association 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 or savings association may specify annual measurable goals for community development loans, community development investments, or both. The bank or savings association must base any annual measurable goals as a percentage or ratio of the bank's or savings association's community development loans and community development investments for all or certain types of community development described in § 25.13(b) through (1), presented either on a combined or separate basis, relative to the bank's or savings association's capacity and should account for community development needs and opportunities.

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

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

(D) A small bank or savings association 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 or savings association 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 or savings association other than a large bank or savings association 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 or savings association 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 or savings association'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 § 25.28(b) and paragraph g.2 of appendix D to this part, as applicable:

(A) A bank or savings association 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 or savings association must emphasize retail lending, community development financing, or both. Alternative weights must be responsive to the characteristics and credit needs of a bank's or savings association's assessment areas and public comments and must be based on the bank's or savings association's capacity and constraints, product offerings, and business strategy.

(B) A bank or savings association that requests an alternate weighting method pursuant to paragraph (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 or savings association 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 or savings association 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 § 25.17, the appropriate Federal banking agency will not evaluate the bank or savings association 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 or savings association 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 or savings association may submit additional information to the appropriate Federal banking agency on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the appropriate Federal banking agency to judge the merits of the plan.

(5) *"Satisfactory" and "Outstanding" performance goals.* A bank or savings association 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 or savings association 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 § 25.28 and appendix C to this part, the appropriate Federal banking agency 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 appropriate Federal banking agency may consider performance context information as provided in § 25.21(d).

(ii) *Ratings.* Pursuant to § 25.28 and paragraph f of appendix D to this part, the appropriate Federal banking agency incorporates the conclusions of a bank or savings association 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 appropriate Federal banking agency seeks to act upon a draft plan within 90 calendar days after the appropriate Federal banking agency receives the complete draft plan and other materials required pursuant to paragraph (f) of this section. If the appropriate Federal banking agency does not act within this time period, the appropriate Federal banking agency will communicate to the bank or savings association 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 appropriate Federal banking agency considers:

(i) The public's involvement in formulating the draft plan, including specific information regarding the members of the public and organizations the bank or savings association contacted and how the bank or savings association 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 or savings association to public input on the draft plan; and

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

(3) *Criteria for evaluating plan for approval*. (i) The appropriate Federal banking agency 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 appropriate Federal banking agency evaluates a plan under the following criteria, as applicable, considering performance context information pursuant to § 25.21(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 §§ 25.22, and 25.29, as applicable;

(B) The effectiveness of the bank's or savings association's systems for delivering retail banking services and the availability and responsiveness of the bank's or savings association's retail banking products, pursuant to § 25.23, as applicable;

(C) The extent, breadth, impact, and responsiveness of the bank's or savings association's community development loans and community development investments, pursuant to §§ 25.24, 25.26, and 25.30, as applicable; and

(D) The number, hours, and types of community development services performed and the extent to which the bank's or savings association's community development services are impactful and responsive, pursuant to §§ 25.25 and 25.30, as applicable.

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

(ii) *Denial*. The appropriate Federal banking agency may deny a bank's or savings association's request to be evaluated under a plan for any of the following reasons:

(A) The Agency determines that the bank or savings association 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 appropriate Federal banking agency determines that evaluation under the plan would not provide a more meaningful reflection of the bank's or savings association's record of helping to meet the credit needs of the bank's or savings association's community;

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

(D) The appropriate Federal banking agency determines that the plan otherwise fails to meet the requirements of this section; or

(E) The bank or savings association fails to provide information requested

by the appropriate Federal banking agency that is necessary for the appropriate Federal banking agency to make an informed decision.

(5) *Publication of approved plan.* The appropriate Federal banking agency will publish an approved plan on the appropriate Federal banking agency's website.

(i) *Plan amendment—(1) Mandatory plan amendment.* During the term of a plan, a bank or savings association must submit to the appropriate Federal banking agency 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 or savings association may request the appropriate Federal banking agency 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 or savings association 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 appropriate Federal banking agency waives a requirement as not applicable.

(j) *Performance evaluation under a plan—(1) In general.* The appropriate Federal banking agency evaluates a bank's or savings association'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 or savings association's approved plan.

(2) *Goal considerations.* If a bank or savings association established annual measurable goals and does not meet one or more of its satisfactory goals, the appropriate Federal banking agency will consider the following factors to determine the effect on a bank's or savings association'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 or savings association, such as economic conditions or other market factors or events, that have adversely impacted the bank's or savings association's ability to perform.

(3) *Ratings.* The appropriate Federal banking agency rates the performance of a bank or savings association under this section pursuant to appendix D to this part.

[89 FR 7165, Feb. 1, 2024; 89 FR 22067, Mar. 29, 2024]

§ 25.28 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 §§ 25.22 through 25.26 and 25.30, the appropriate Federal banking agency 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 or savings association in each State and multistate MSA, as applicable pursuant to paragraph (c) of this section, and for the institution.

(ii) *Small banks or savings associations.* The appropriate Federal banking agency assigns conclusions of "Outstanding," "Satisfactory," "Needs to Improve," or "Substantial Noncompliance" for the performance of a small

bank or savings association evaluated under the Small Bank and Savings Association Lending Test in § 25.29(a)(2) in each State and multistate MSA, as applicable pursuant to paragraph (c) of this section, and for the institution pursuant to § 25.29 and appendix E to this part.

(iii) *Banks and savings associations operating under a strategic plan.* The appropriate Federal banking agency assigns conclusions for the performance of a bank or savings association operating under a strategic plan pursuant to § 25.27 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 and savings association performance in metropolitan and nonmetropolitan areas.* Pursuant to 12 U.S.C. 2906, the appropriate Federal banking agency provides conclusions derived under this part separately for metropolitan areas in which a bank or savings association maintains one or more domestic branch offices and for the nonmetropolitan area of a State if a bank or savings association maintains one or more domestic branch offices in such nonmetropolitan area.

(b) *Ratings*—(1) *In general.* The appropriate Federal banking agency assigns a rating for a bank's or savings association's overall CRA performance of "Outstanding," "Satisfactory," "Needs to Improve," or "Substantial Non-compliance" 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 appropriate Federal banking agency reflect the bank's or savings association'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 or savings association.

(2) *State, multistate MSA, and institution ratings and overall performance scores.* (i) For large banks or savings associations, intermediate banks or savings associations, small banks or savings associations that opt into the Re-

tail Lending Test in § 25.22, and limited purpose banks or savings associations, the appropriate Federal banking agency calculates and discloses the bank's or savings association's overall performance score for each State and multistate MSA, as applicable, and for the institution. The appropriate Federal banking agency uses a bank's or savings association's overall performance scores described in this section to assign a rating for the bank's or savings association'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 or savings association'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 savings association's or intermediate bank's or savings association's overall performance score for each State and multistate MSA, as applicable, and the institution, the appropriate Federal banking agency weights the performance scores for the bank or savings association for each applicable performance test as provided in paragraphs (b)(3)(i) and (ii) of this section.

(i) *Large bank or savings association performance test weights.* The appropriate Federal banking agency weights the bank's or savings association's performance score for the performance tests applicable to a large bank or savings association 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 or savings association performance test weights.* The appropriate Federal banking agency weights the bank's or savings association's performance score for the performance tests applicable to an intermediate bank or savings association as follows:

(A) Retail Lending Test, 50 percent; and

(B) Intermediate Bank and Savings Association 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 savings association or a large bank or savings association 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 appropriate Federal banking agency assigns a large bank or savings association 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 §25.51(e), a large bank or savings association 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 or savings association receives 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, 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 appropriate Federal banking agency evaluates a bank or savings association and assigns conclusions and ratings for any State in which the bank or savings association maintains a main office, branch, or deposit-taking remote service facility.

(ii) *States with rated multistate MSAs.*

The appropriate Federal banking agency evaluates a bank or savings association and assigns conclusions and ratings for a State only if the bank or savings association 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 or savings association and assigning conclusions and ratings for a State, the appropriate Federal banking agency 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 or savings association 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 appropriate Federal banking agency considers activities in the entire facility-based assessment area to be in the State in which the bank or savings association maintains, within the multistate MSA, a main office, branch, or deposit-taking remote service facility. In evaluating a bank or savings association and assigning conclusions and ratings for a State, the appropriate Federal banking agency 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 §25.22(h), the appropriate Federal banking agency does not consider a bank’s or savings association’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 appropriate Federal banking agency evaluates a bank or savings association and assigns conclusions and ratings under this part in any multistate MSA in which the bank or savings association maintains a main office, a branch, or a

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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 appropriate Federal banking agency's evaluation of a bank's or savings association'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 appropriate Federal banking agency considers evidence of discriminatory or other illegal credit practices described in this section by:

(i) The bank or savings association, including by an operating subsidiary of the bank or savings association; or

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

(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 (d)(2)(i) through (viii) of this section,

as determined by the appropriate Federal banking agency.

(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 or savings association's assigned State, multistate MSA, and institution ratings, the appropriate Federal banking agency 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 or savings association, operating 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 appropriate Federal banking agency considers a bank's or savings association's past performance. If a bank's or savings association's prior rating was "Needs to Improve," the appropriate Federal banking agency may determine that a "Substantial Noncompliance" rating is appropriate where the bank or savings association failed to improve its performance since the previous evaluation period, with no acceptable basis for such failure.

§ 25.29 Small bank and savings association performance evaluation.

(a) *Small bank or savings association performance evaluation*—(1) *In general*. The appropriate Federal banking agency evaluates a small bank's or savings association's record of helping to meet the credit needs of its entire community pursuant to the Small Bank and Savings Association Lending Test as

provided in paragraph (a)(2) of this section, unless the small bank or savings association opts to be evaluated pursuant to the Retail Lending Test in § 25.22.

(2) *Small Bank and Savings Association Lending Test.* A small bank's or savings association's retail lending performance is evaluated pursuant to the following criteria:

(i) The bank's or savings association's loan-to-deposit ratio, adjusted for seasonal variation, and, as appropriate, other retail and community 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 or savings association's facility-based assessment areas;

(iii) The bank's or savings association'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 or savings association's loans; and

(v) The bank's or savings association'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 or savings associations evaluated pursuant to the Small Bank and Savings Association Lending Test.* The appropriate Federal banking agency may adjust a small bank or savings association rating from "Satisfactory" to "Outstanding" at the institution level where the bank or savings association requests and receives additional consideration for the following activities, without regard to whether the activity is in one or more of the bank's or savings association'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 or savings associations that opt to be evaluated pursuant to the Retail Lending Test in § 25.22.* The appropriate Federal banking agency may adjust a small bank or savings association rating from "Satisfactory" to "Outstanding" at the institution level where the bank or savings association requests and receives additional consideration for activities that would qualify pursuant to the Retail Services and Products Test in § 25.23, the Community Development Financing Test in § 25.24, or the Community Development Services Test in § 25.25.

(3) *Additional consideration for activities with MDIs, WDI's, and LICU's, and for providing low-cost education loans.* Notwithstanding paragraphs (b)(1) and (2) of this section, a small bank or savings association may request and receive additional consideration at the institution level for activities with MDIs, WDI's, and LICU's 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 or savings association's overall institution rating.

(c) *Small bank or savings association performance conclusions and ratings—(1) Conclusions.* Except for a small bank or savings association that opts to be evaluated pursuant to the Retail Lending Test in § 25.22, the appropriate Federal banking agency assigns conclusions for the performance of a small bank or savings association evaluated under this section as provided in appendix E to this part. If a bank or savings association opts to be evaluated pursuant to the Retail Lending Test, the appropriate Federal banking agency assigns conclusions for the bank's or savings association's Retail Lending

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Test performance as provided in appendix C to this part. In assigning conclusions for a small bank or savings association, the appropriate Federal banking agency may consider performance context information as provided in § 25.21(d).

(2) *Ratings.* For a small bank or savings association evaluated under the Small Bank and Savings Association Lending Test, the appropriate Federal banking agency rates the bank's or savings association's performance under this section as provided in appendix E to this part. If a small bank or savings association opts to be evaluated under the Retail Lending Test in § 25.22, the appropriate Federal banking agency rates the performance of a small bank or savings association as provided in appendix D to this part.

§ 25.30 Intermediate bank and savings association performance evaluation.

(a) *Intermediate bank or savings association performance evaluation—(1) In general.* The appropriate Federal banking agency evaluates an intermediate bank's or savings association's record of helping to meet the credit needs of its entire community pursuant to the Retail Lending Test in § 25.22 and the Intermediate Bank and Savings Association Community Development Test as provided in paragraph (a)(2) of this section, unless an intermediate bank or savings association opts to be evaluated pursuant to the Community Development Financing Test in § 25.24.

(2) *Intermediate Bank and Savings Association Community Development Test.* (i) An intermediate bank's or savings association'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 or savings association provides community development services; and

(D) The bank's or savings association's responsiveness through such community development loans, community development investments, and community development services to community development needs. The appropriate Federal banking agency's

evaluation of the responsiveness of the bank's or savings association's activities is informed by information provided by the bank or savings association, and may be informed by the impact and responsiveness review factors described in § 25.15(b).

(ii) The appropriate Federal banking agency considers an intermediate bank's or savings association'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 or savings association's facility-based assessment areas. The extent of the appropriate Federal banking agency's consideration of community development loans, community development investments, and community development services outside of the bank's or savings association's facility-based assessment areas will depend on the adequacy of the bank's or savings association's responsiveness to community development needs and opportunities within the bank's or savings association's facility-based assessment areas and applicable performance context information.

(b) *Additional consideration—(1) Intermediate banks or savings associations evaluated pursuant to the Intermediate Bank and Savings Association Community Development Test.* The appropriate Federal banking agency may adjust the rating of an intermediate bank or savings association evaluated as provided in paragraph (a)(2) of this section from "Satisfactory" to "Outstanding" at the institution level where the bank or savings association requests and receives additional consideration for activities that would qualify pursuant to the Retail Services and Products Test in § 25.23.

(2) *Intermediate banks or savings associations evaluated pursuant to the Community Development Financing Test.* The appropriate Federal banking agency may adjust the rating of an intermediate bank or savings association that opts to be evaluated pursuant to the Community Development Financing Test in § 25.24 from "Satisfactory" to "Outstanding" at the institution

level where the bank or savings association requests and receives additional consideration for activities that would qualify pursuant to the Retail Services and Products Test in § 25.23, the Community Development Services Test in § 25.25, or both.

(3) *Additional consideration for low-cost education loans.* Notwithstanding paragraphs (b)(1) and (2) of this section, an intermediate bank or savings association 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 or savings association's overall institution rating.

(c) *Intermediate bank or savings association performance conclusions and ratings*—(1) *Conclusions.* The appropriate Federal banking agency assigns a conclusion for the performance of an intermediate bank or savings association evaluated pursuant to this section as provided in appendices C and E to this part. In assigning conclusions for an intermediate bank or savings association, the appropriate Federal banking agency may consider performance context information as provided in § 25.21(d).

(2) *Ratings.* The appropriate Federal banking agency rates the performance of an intermediate bank or savings association evaluated under this section as provided in appendix D to this part.

§ 25.31 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the appropriate Federal banking agency takes into account the record of performance under the CRA of each applicant bank or savings association, and for applications under 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)), of each proposed subsidiary savings association, in considering an application for:

- (1) The establishment of:
 - (i) A domestic branch for insured banks; or
 - (ii) A domestic branch or other facility that would be authorized to take deposits for savings associations;
- (2) The relocation of the main office or a branch;

(3) The merger or consolidation with or the acquisition of assets or assumption of liabilities of an insured depository institution requiring approval under the Bank Merger Act (12 U.S.C. 1828(c));

(4) The conversion of an insured depository institution to a national bank or Federal savings association charter; and

(5) Acquisitions subject to section 10(e) of the Home Owners' Loan Act (12 U.S.C. 1467a(e)).

(b) *Charter application.* (1) An applicant (other than an insured depository institution) for a national bank charter must submit with its application a description of how it will meet its CRA objectives. The OCC takes the description into account in considering the application and may deny or condition approval on that basis.

(2) An applicant for a Federal savings association charter must submit with its application a description of how it will meet its CRA objectives. The appropriate Federal banking agency takes the description into account in considering the application and may deny or condition approval on that basis.

(c) *Interested parties.* The appropriate Federal banking agency takes into account any views expressed by interested parties that are submitted in accordance with the applicable comment procedures in considering CRA performance in an application listed in paragraphs (a) and (b) of this section.

(d) *Denial or conditional approval of application.* A bank's 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.

(e) *Insured depository institution.* For purposes of this section, the term "insured depository institution" has the meaning given to that term in 12 U.S.C. 1813.

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

SOURCE: 89 FR 7165, Feb. 1, 2024, unless otherwise noted.

§ 25.42 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 or savings association must collect and maintain in electronic form, as prescribed by the appropriate Federal banking agency, until the completion of the bank's or savings association'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 or savings association 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 or savings association'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 or savings association;
- (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 or savings association.

(2) *Consumer loans data—automobile loans*—(i) *Large banks or savings associations.* A large bank or savings association for which automobile loans are a product line must collect and maintain in electronic form, as prescribed by the appropriate Federal banking agency, until the completion of the bank's or

savings association'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 or savings association during the evaluation period.

(ii) *Intermediate or small banks or savings associations.* An intermediate bank or savings association or a small bank or savings association for which automobile loans are a product line may collect and maintain in a format of the bank's or savings association's choosing, including in an electronic form prescribed by the appropriate Federal banking agency, until the completion of the bank's or savings association'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 or savings association 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 or savings association; and
- (F) The gross annual income relied on in making the credit decision.

(3) *Home mortgage loans.* (i) If a large bank or savings association is subject to reporting under 12 CFR part 1003, the bank or savings association must collect and maintain, in electronic form, as prescribed by the appropriate Federal banking agency, until the completion of the bank's or savings association'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 or savings association 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 or savings association is not subject to reporting under 12 CFR part 1003 due to the location of its branches, but would otherwise meet the Home Mortgage Disclosure Act (HMDA) size and lending activity requirements pursuant to 12 CFR part 1003, the bank or savings association must collect and maintain, in electronic form, as prescribed by the appropriate Federal banking agency, until the completion of the bank's or savings association'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 or savings association.

(4) *Retail banking services and retail banking products data*—(i) *Branches and remote service facilities.* A large bank or savings association must collect and maintain in electronic form, as prescribed by the appropriate Federal banking agency, until completion of the bank's or savings association'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 or savings association during each calendar year:

(A) Location of branches, main offices described in § 25.23(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 § 25.23(a)(2), and remote service facility openings and closings, as applicable;

(D) Hours of operation of each branch, main office described in § 25.23(a)(2), and remote service facility, as applicable; and

(E) Services offered at each branch or main office described in § 25.23(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 or savings association that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years, a large bank or savings association 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 § 25.23(a)(2), and a large bank or savings association 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 § 25.23(b)(4), must collect and maintain in electronic form, as prescribed by the appropriate Federal banking agency, until the completion of the bank's or savings association's next CRA examination in which the data are evaluated, the data described in paragraph (a)(4)(ii)(B) of this section. A bank or savings association 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 or savings association's own choosing.

(B) *Required data.* Pursuant to paragraph (a)(4)(ii)(A) of this section, a bank or savings association 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 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 or savings association 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 or savings association that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years and a large bank or savings association 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 § 25.23(c)(3), must collect and maintain in electronic form, as prescribed by the appropriate Federal banking agency, until the completion of the bank's or savings association's next CRA examination in which the data are evaluated, the data described in paragraph (a)(4)(iii)(B) of this section. A bank or savings association 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 or savings association's choosing.

(B) *Required data.* Pursuant to paragraph (a)(4)(iii)(A) of this section, a

bank or savings association 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 or savings association may collect and maintain any other information that demonstrates the availability and usage of the bank's or savings association'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 or savings association and a limited purpose bank or savings association that would be a large bank or savings association based on the asset size described in the definition of a large bank or savings association, must collect and maintain in electronic form, as prescribed by the appropriate Federal banking agency, until the completion of the bank's or savings association'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 or savings association during the evaluation period.

(B) An intermediate bank or savings association that opts to be evaluated under the Community Development Financing Test in § 25.24 must collect and maintain in the format used by the bank or savings association in the normal course of business, until the completion of the bank's or savings association'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

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bank or savings association during the evaluation period.

(ii) Pursuant to paragraphs (a)(5)(i)(A) and (B) of this section, a bank or savings association 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, refinancing, 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;

(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 or savings association'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 or savings association'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 or savings association'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 § 25.13(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 or savings association 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;

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- (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 § 25.13.

(6) *Community development services data.* A large bank or savings association must collect and maintain, in a format of the bank's or savings association's choosing or in a standardized format, as provided by the appropriate Federal banking agency, until the completion of the bank's or savings association'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 § 25.13(b) through (1);
- (E) Capacity in which a bank's or savings association's or its affiliate's board member or employee serves (*e.g.*, board member of a nonprofit 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 or savings association 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 or savings association is seeking consideration in a facility-based assessment area, State, multistate MSA, or nationwide area.

(7) *Deposits data.* A large bank or savings association 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 appropriate Federal banking agency, until the completion of the bank's or savings association'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 or savings association 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 or savings association 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 or savings association must report annually by April 1 to the appropriate Federal banking agency in electronic form, as prescribed by the appropriate Federal banking agency, 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 or savings association originated or purchased a small business loan or small farm loan, the bank or savings association 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 or savings association.

(2) *Community development loans and community development investments data.* A large bank or savings association and a limited purpose bank or savings association that would be a large bank or savings association based on the asset size described in the definition of a large bank or savings association must report annually by April 1 to the appropriate Federal banking agency in

electronic form, as prescribed by the appropriate Federal banking agency, 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 or savings association 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 appropriate Federal banking agency in electronic form, as prescribed by the appropriate Federal banking agency, 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 or savings association 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 or savings association 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 operating subsidiaries.* To the extent that its operating subsidiaries engage in retail banking services, retail banking products, community development lending, community development investments, or community development services, a bank or savings association must collect, maintain, and report these loans, investments, services, and products of its operating subsidiaries pursuant to paragraphs (a) and (b) of this section, as applicable, for purposes of evaluating the

bank's or savings association's performance. For home mortgage loans, the bank or savings association must identify the home mortgage loans reported by its operating subsidiary under 12 CFR part 1003, if applicable, or collect and maintain data on home mortgage loans by its operating subsidiary that the bank or savings association would have collected and maintained pursuant to paragraph (a)(3) of this section had the bank or savings association originated or purchased the loans.

(d) *Data on other affiliates.* A bank or savings association that elects to have the appropriate Federal banking agency consider retail banking services, retail banking products, community development lending, community development investments, or community development services engaged in by affiliates of a bank or savings association (other than an operating subsidiary), for purposes of this part must collect, maintain, and report the data that the bank or savings association 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 or savings association. For home mortgage loans, the bank or savings association must identify the home mortgage loans reported by bank or savings association affiliates under 12 CFR part 1003, if applicable, or collect and maintain data on home mortgage loans by the affiliate that the bank or savings association would have collected and maintained pursuant to paragraphs (a)(3) of this section had the loans been originated or purchased by the bank or savings association.

(e) *Data on community development loans and community development investments by a consortium or a third party.* A bank or savings association that elects to have the appropriate Federal banking agency 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 or savings association would have collected, maintained, and reported pursuant to paragraphs (a)(5) and (b)(2)

of this section had the bank or savings association originated, purchased, refinanced, or renewed the loans or investments.

(f) *Assessment area data—(1) Facility-based assessment areas.* A large bank or savings association and a limited purpose bank or savings association that would be a large bank or savings association based on the asset size described in the definition of a large bank or savings association must collect and report to the appropriate Federal banking agency 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 or savings association must collect and report to the appropriate Federal banking agency 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 appropriate Federal banking agency or its appointed agent, prepares annually, for each bank or savings association 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 or savings association 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 or savings association reported a small business loan or a small farm loan;

(iv) The number and dollar volume of small business loans and small farm

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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 or savings association 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 per-

cent 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 or savings association 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 or savings association 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 or savings association; 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 or savings association has a branch, each multistate MSA in which a bank or savings association 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 appropriate Federal banking agency 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 228 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 or savings

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associations, except that the appropriate Federal banking agency 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 or savings association.

(i) *Availability of disclosure statements.* The appropriate Federal banking agency makes the individual bank or savings association 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 or savings association required to report home mortgage loan data pursuant to 12 CFR part 1003, the appropriate Federal banking agency will publish on the appropriate Federal banking agency's website the data required by paragraph (j)(2) of this section concerning the distribution of a large bank's or savings association's originations and applications of home mortgage loans by borrower or applicant income level, race, and ethnicity in each of the bank's or savings association'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 appropriate Federal banking agency's website.* For each of the large bank's or savings association's facility-based assessment areas, and as applicable, its retail lending assessment areas, the appropriate Federal banking agency publishes on the appropriate Federal banking agency's website:

(i) The number and percentage of originations and applications of the large bank's or savings association'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 appropriate Federal banking agency will publicly announce that the information is available on the appropriate Federal banking agency'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 or savings association.

EFFECTIVE DATE NOTE: At 89 FR 7168, Feb. 1, 2024, § 25.42 was amended by:

- a. Revising paragraph (a)(1);
- b. Removing and reserving paragraph (b)(1); and
- c. Removing the phrase “small business loans and small farm loans reported as originated or purchased” from paragraphs (g)(1)(i) and (g)(2)(i) and adding “small business loans and small farm loans reported as originated” in its place.

The effective date is delayed indefinitely. For the convenience of the user, the revised text is set forth as follows:

§ 25.42 Data collection, reporting, and disclosure.

(a) * * *

(1) *Purchases of small business loans and small farm loans data.* A bank that opts to have the OCC consider its purchases of small business loans and small farm loans must collect and maintain in electronic form, as prescribed by the OCC, 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 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;

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(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.

* * * * *

§ 25.43 Content and availability of public file.

(a) *Information available to the public.* A bank or savings association 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 or savings association's performance in helping to meet community credit needs, and any response to the comments by the bank or savings association, 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 savings association or publication of which would violate specific provisions of law;

(2) A copy of the public section of the bank's or savings association's most recent CRA performance evaluation prepared by the appropriate Federal banking agency. The bank or savings association must include this copy in the public file within 30 business days after its receipt from the appropriate Federal banking agency;

(3) A list of the bank's or savings association's branches, their street addresses, and census tracts;

(4) A list of branches opened or closed by the bank or savings association 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 or savings association's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. A bank or savings association 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 or savings association chooses.

(b) *Additional information available to the public—*(1) *Banks and savings associations subject to data reporting requirements pursuant to § 25.42.* A bank or savings association subject to data reporting requirements pursuant to § 25.42 must include in its public file a written notice that the CRA Disclosure Statement pertaining to the bank or savings association, its operating subsidiaries, and its other affiliates, if applicable, may be obtained on the FFIEC's website at: <https://www.ffiec.gov>. The bank or savings association 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 and savings associations required to report HMDA data—*(i) *HMDA Disclosure Statement.* A bank or savings association required to report home mortgage loan data pursuant to 12 CFR part 1003 must include in its public file a written notice that the bank's or savings association'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 appropriate Federal banking agency considered the home mortgage lending of a bank's or savings association's operating subsidiaries or, at a bank's or savings association's election, the appropriate Federal banking agency considered the home mortgage

lending of other bank or savings association affiliates, the bank or savings association must include in its public file the names of the operating subsidiaries and the names of the affiliates and a written notice that the operating subsidiaries' and other affiliates' HMDA Disclosure Statements may be obtained at the CFPB's website. The bank or savings association 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 or savings association HMDA data.* A large bank or savings association 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 appropriate Federal banking agency under § 25.42(j) are available at the appropriate Federal banking agency's website.

(3) *Small banks or savings associations.* A small bank or savings association, or a bank or savings association that was a small bank or savings association during the prior calendar year, must include in its public file the bank's or savings association'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 and savings associations with strategic plans.* A bank or savings association 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 or savings association need not include information submitted to the appropriate Federal banking agency on a confidential basis in conjunction with the plan.

(5) *Banks and savings associations with less than "Satisfactory" ratings.* A bank or savings association 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 or savings association must update the description quarterly by March 31, June 30, September 30, and December 31, respectively.

(c) *Location of public information.* A bank or savings association must make available to the public for inspection, upon request and at no cost, the information required in this section as follows:

(1) For banks or savings associations that maintain a website, all information required for the bank's or savings association's public file under this section must be maintained on the bank's or savings association's website.

(2) For banks or savings associations that do not maintain a website:

(i) All the information required for the bank's or savings association's public file must be maintained at the main office and, if an interstate bank or savings association, 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 or savings association'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 or savings association 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 or savings association 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 or savings association 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 or savings association 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 7168, Feb. 1, 2024, § 25.43 was amended by revising the heading of paragraph (b)(2) and adding paragraph (b)(2)(iii), delayed indefinitely. For the convenience of the user, the added and revised text is set forth as follows:

§ 25.43 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 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/>.

* * * *

§ 25.44 Public notice by banks and savings associations.

A bank or savings association 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 or savings association having more than one facility-based assessment area must include the bracketed material in the notice for branch offices. Only a bank or savings association that is an affiliate of a holding company must include the next to the last sentence of the notices. A bank or savings association 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.

§ 25.45 Publication of planned examination schedule.

The appropriate Federal banking agency publishes on its public website, at least 30 days in advance of the beginning of each calendar quarter, a list of banks or savings associations scheduled for CRA examinations for the next two quarters.

§ 25.46 Public engagement.

(a) *In general.* The appropriate Federal banking agency encourages communication between members of the public and banks or savings associations, including through members of the public submitting written public comments regarding community credit needs and opportunities as well as a

bank's or savings association's record of helping to meet community credit needs. The appropriate Federal banking agency will take these comments into account in connection with the bank's or savings association'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 or savings association's CRA performance by submitting comments to the appropriate Federal banking agency at "CRAComments@occ.treas.gov, or by mailing comments to: Compliance Risk Policy Division, Bank Supervision Policy, OCC, Washington, DC 20219, for banks and Federal savings associations; or CRACommentCollector@fdic.gov, or by mailing comments to the address of the appropriate FDIC regional office found at <https://www.fdic.gov/resources/bankers/community-reinvestment-act/cra-regional-contacts-list.html>, for State savings associations.

(c) *Timing of public comments.* If the appropriate Federal banking agency receives a public comment before the close date of a bank's or savings association's CRA examination, the public comment will be considered in connection with that CRA examination. If the appropriate Federal banking agency receives a public comment after the close date of a bank's or savings association's CRA examination, it will be considered in connection with the bank's or savings association's subsequent CRA examination.

(d) *Distribution of public comments.* The appropriate Federal banking agency will forward all public comments received regarding a bank's or savings association's CRA performance to the bank or savings association.

Subpart E—Transition Rules

SOURCE: 89 FR 7165, Feb. 1, 2024, unless otherwise noted.

§ 25.51 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.

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(2) *Specific applicability dates.* The following sections are applicable as follows:

(i) On January 1, 2026, §§ 25.12 through 25.30, 25.42(a), 25.43, and 25.44; the data collection and maintenance requirements in § 25.42(c) through (f); and appendices A through F to this part become applicable.

(ii) On January 1, 2027, § 25.42(b) and (g) through (i) and the reporting requirements in § 25.42(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 and savings associations 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 or savings association 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 appropriate Federal banking agency will publish the data pursuant to § 25.42(j) beginning January 1, 2027.

(c) *Consideration of bank or savings association activities.* (1) In assessing a bank's or savings association's CRA performance, the appropriate Federal banking agency will consider any loan, investment, service, or product that was eligible for CRA consideration at the time the bank or savings association conducted the activity.

(2) Notwithstanding paragraph (c)(1) of this section, in assessing a bank's or savings association's CRA performance, the appropriate Federal banking agency will consider any loan or investment that was eligible for CRA consideration at the time that the bank or savings association 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 appropriate Federal banking agency 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 25.27 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 appropriate Federal banking agency 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 February 1, 2024, remains in effect until the expiration date of the plan except for provisions that were not permissible under this part as of January 1, 2022.

(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 or savings association 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 or savings association subject to evaluation under this part or [other Agencies' regulations] 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 or savings association 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.

[89 FR 7165, Feb. 1, 2024; 89 FR 22067, Mar. 29, 2024]

EDITORIAL NOTE: At 89 FR 7168, Feb. 1, 2024, § 25.51 was amended by removing "[other Agencies' CRA regulations]" and adding "12 CFR part 228 or 345" in its place in paragraph (e); however, the amendment could not be incorporated due to inaccurate amendatory instruction.

Subpart F—Prohibition Against Use of Interstate Branches Primarily for Deposit Production

SOURCE: 86 FR 71339, Dec. 15, 2021, unless otherwise noted. Redesignated at 89 FR 7165, Feb. 1, 2024.

§ 25.61 Purpose and scope.

(a) *Purpose.* The purpose of this subpart is to implement section 109 (12 U.S.C. 1835a) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act).

(b) *Scope.* (1) This subpart applies to any national bank or savings association that has operated a covered interstate branch for a period of at least one year, and any foreign bank or savings association that has operated a covered interstate branch that is a Federal branch for a period of at least one year.

(2) This subpart describes the requirements imposed under 12 U.S.C. 1835a, which requires the appropriate Federal banking agencies (the OCC, the Board of Governors of the Federal Reserve System, and the FDIC) to prescribe uniform rules that prohibit a bank or savings association from using any authority to engage in interstate branching pursuant to the Interstate Act, or any amendment made by the Interstate Act to any other provision of law, primarily for the purpose of deposit production.

§ 25.62 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Bank and savings association* means, unless the context indicates otherwise:

(1) A national bank or savings association; and

(2) A foreign bank or savings association as that term is defined in 12 U.S.C. 3101(7) and 12 CFR 28.11(i).

(b) *Covered interstate branch* means:

(1) Any branch of a national bank or savings association, and any Federal branch of a foreign bank or savings association, that:

(i) Is established or acquired outside the bank's or savings association's home State pursuant to the interstate branching authority granted by the Interstate Act or by any amendment

made by the Interstate Act to any other provision of law; or

(ii) Could not have been established or acquired outside of the bank's or savings association's home State but for the establishment or acquisition of a branch described in paragraph (b)(1)(i) of this section; and

(2) Any bank or savings association or branch of a bank or savings association controlled by an out-of-State bank or savings association holding company.

(c) *Federal branch* means Federal branch as that term is defined in 12 U.S.C. 3101(6) and 12 CFR 28.11(h).

(d) *Home State* means:

(1) With respect to a State bank or savings association, the State that chartered the bank or savings association;

(2) With respect to a national bank or savings association, the State in which the main office of the bank or savings association is located;

(3) With respect to a bank or savings association holding company, the State in which the total deposits of all banking subsidiaries of such company are the largest on the later of:

(i) July 1, 1966; or

(ii) The date on which the company becomes a bank or savings association holding company under the Bank Holding Company Act;

(4) With respect to a foreign bank or savings association:

(i) For purposes of determining whether a U.S. branch of a foreign bank or savings association is a covered interstate branch, the home State of the foreign bank or savings association as determined in accordance with 12 U.S.C. 3103(c) and 12 CFR 28.11(n); and

(ii) For purposes of determining whether a branch of a U.S. bank or savings association controlled by a foreign bank or savings association is a covered interstate branch, the State in which the total deposits of all banking subsidiaries of such foreign bank or savings association are the largest on the later of:

(A) July 1, 1966; or

(B) The date on which the foreign bank or savings association becomes a bank or savings association holding

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company under the Bank Holding Company Act.

(e) *Host State* means a State in which a covered interstate branch is established or acquired.

(f) *Host state loan-to-deposit ratio* generally means, with respect to a particular host state, the ratio of total loans in the host state relative to total deposits from the host state for all banks or savings associations (including institutions covered under the definition of “bank or savings association” in 12 U.S.C. 1813(a)(1)) that have that state as their home state, as determined and updated periodically by the appropriate Federal banking agencies and made available to the public.

(g) *Out-of-State bank or savings association holding company* means, with respect to any State, a bank or savings association holding company whose home State is another State.

(h) *State* means state as that term is defined in 12 U.S.C. 1813(a)(3).

(i) *Statewide loan-to-deposit ratio* means, with respect to a bank or savings association, the ratio of the bank’s or savings association’s loans to its deposits in a state in which the bank or savings association has one or more covered interstate branches, as determined by the OCC.

§ 25.63 Loan-to-deposit ratio screen.

(a) *Application of screen.* Beginning no earlier than one year after a covered interstate branch is acquired or established, the OCC will consider whether the bank’s or savings association’s statewide loan-to-deposit ratio is less than 50 percent of the relevant host State loan-to-deposit ratio.

(b) *Results of screen.* (1) If the OCC determines that the bank’s or savings association’s statewide loan-to-deposit ratio is 50 percent or more of the host state loan-to-deposit ratio, no further consideration under this subpart is required.

(2) If the OCC determines that the bank’s or savings association’s statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank’s or savings association’s statewide loan-to-deposit ratio, the OCC will make a credit needs determination for

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the bank or savings association as provided in § 25.64.

§ 25.64 Credit needs determination.

(a) *In general.* The OCC will review the loan portfolio of the bank or savings association and determine whether the bank or savings association is reasonably helping to meet the credit needs of the communities in the host state that are served by the bank or savings association.

(b) *Guidelines.* The OCC will use the following considerations as guidelines when making the determination pursuant to paragraph (a) of this section:

(1) Whether covered interstate branches were formerly part of a failed or failing depository institution;

(2) Whether covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution’s business or loan portfolio;

(3) Whether covered interstate branches have a high concentration of commercial or credit card lending, trust services, or other specialized activities, including the extent to which the covered interstate branches accept deposits in the host state;

(4) The CRA ratings received by the bank or savings association, if any;

(5) Economic conditions, including the level of loan demand, within the communities served by the covered interstate branches;

(6) The safe and sound operation and condition of the bank or savings association; and

(7) The OCC’s CRA regulations (subparts A through D of this part) and interpretations of those regulations.

§ 25.65 Sanctions.

(a) *In general.* If the OCC determines that a bank or savings association is not reasonably helping to meet the credit needs of the communities served by the bank or savings association in the host state, and that the bank’s or savings association’s statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, the OCC:

(1) May order that a bank’s or savings association’s covered interstate branch or branches be closed unless the

bank or savings association provides reasonable assurances to the satisfaction of the OCC, after an opportunity for public comment, that the bank or savings association has an acceptable plan under which the bank or savings association will reasonably help to meet the credit needs of the communities served by the bank or savings association in the host state; and

(2) Will not permit the bank or savings association to open a new branch in the host state that would be considered to be a covered interstate branch unless the bank or savings association provides reasonable assurances to the satisfaction of the OCC, after an opportunity for public comment, that the bank or savings association will reasonably help to meet the credit needs of the community that the new branch will serve.

(b) *Notice prior to closure of a covered interstate branch.* Before exercising the OCC's authority to order the bank or savings association to close a covered interstate branch, the OCC will issue to the bank or savings association a notice of the OCC's intent to order the closure and will schedule a hearing within 60 days of issuing the notice.

(c) *Hearing.* The OCC will conduct a hearing scheduled under paragraph (b) of this section in accordance with the provisions of 12 U.S.C. 1818(h) and 12 CFR part 19.

APPENDIX A TO PART 25—CALCULATIONS FOR THE RETAIL LENDING TEST

This appendix, based on requirements described in §§25.22 and 25.28, 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 appropriate Federal banking agency calculates the Bank Volume Metric and the Market Volume Benchmark for a facility-based assessment area and determines whether the bank or savings association has met or surpassed the Retail Lending Volume Threshold in that facility-based assessment area.

a. *Bank Volume Metric.* The appropriate Federal banking agency calculates the Bank Volume Metric for each facility-based assessment area by:

1. Summing, over the years in the evaluation period, the bank's or savings association's annual dollar volume of loans included in the Bank Volume Metric (*i.e.*, *volume metric loans*). The bank's or savings association'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 or savings association in the facility-based assessment area in that year. Automobile loans are included in the bank's or savings association's annual dollar amount of volume metric loans only if automobile loans are a product line for the bank or savings association.

2. Summing, over the years in the evaluation period, the bank's or savings association's annual dollar volume of deposits in the facility-based assessment area. For a bank or savings association that reports deposits data pursuant to §25.42(b)(3), the bank's or savings association'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 or savings association in counties in the facility-based assessment area for that year. For a bank or savings association that does not report deposits data pursuant to §25.42(b)(3), the bank's or savings association's annual dollar volume of deposits in a facility-based assessment area is the total of deposits assigned to facilities reported by the bank or savings association 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

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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 appropriate Federal banking agency 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 §25.42(b)(1), 12 CFR 228.42(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 appropriate Federal banking agency 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 re-

ports data pursuant to §25.42(b)(3) or 12 CFR 228.42(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 §25.42(b)(3) or 12 CFR 228.42(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 appropriate Federal banking agency 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 or savings association 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 appropriate Federal banking agency 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.

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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 or savings association's major product lines are evaluated in its Retail Lending Test Areas, as provided in §25.22(d) and as described in paragraphs II.a.1 and 2 of this appendix.

1. *Large banks or savings associations exempt from evaluation in retail lending assessment areas.* Pursuant to §25.17(a)(2), a large bank or savings association 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 §25.12:

i. The sum, over the prior two calendar years, of the large bank's or savings association'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 or savings association, 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 or savings association'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 or savings association, 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 §25.17(a)(2) in the current calendar year because the 82.5 percent exceeds the 80 percent threshold.

2. *Small banks or savings associations and intermediate banks or savings associations evaluated in outside retail lending areas.* Pursuant to §25.18(a)(2), the appropriate Federal banking agency evaluates the geographic and borrower distributions of the major product lines of an intermediate bank or savings association, or a small bank or savings association

that opts to be evaluated under the Retail Lending Test, in the bank's or savings association's outside retail lending area if either:

i. The bank or savings association 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 §25.12:

A. The sum, over the prior two calendar years, of the bank's or savings association'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 or savings association, 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 or savings association'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 or savings association, originated or purchased overall.

b. *Product lines and major product lines.* In each of a bank's or savings association's Retail Lending Test Areas, the appropriate Federal banking agency evaluates each of a bank's or savings association's major product lines, as provided in §25.22(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 §25.12:

i. The sum, over the years of the evaluation period, of the bank's or savings association'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 or savings association's loans in all product lines originated or purchased in the facility-based assessment area or outside retail lending area.

iii. If a bank or savings association 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 appropriate Federal banking agency determines that the product line is material to the bank's or savings association'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 or savings association delineates a retail lending assessment area based on its closed-end home mortgage loans as determined by the standard in §25.17(c)(1); and

(ii) Small business loans are a major product line in any calendar year in the evaluation period in which the bank or savings association delineates a retail lending assessment area based on its small business loans as determined by the standard in §25.17(c)(2).

3. *Banks and savings associations for which automobile loans are a product line.*

i. If a bank's or savings association's automobile loans are a product line (either because the bank or savings association is a majority automobile lender or opts to have its automobile loans evaluated pursuant to §25.22), automobile loans are a product line for the bank or savings association for the entire evaluation period.

ii. A bank or savings association 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 §25.12:

A. The sum, over the two calendar years preceding the first year of the evaluation period, of the bank's or savings association'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 or savings association'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 appropriate Federal banking agency 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 or savings association's outside retail lending area, the appropriate Federal banking agency 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

or savings associations and intermediate banks or savings associations without data collection, maintenance and reporting requirements, the appropriate Federal banking agency will use data collected by the bank or savings association in the ordinary course of business or through sampling of bank or savings association loan data.

a. *Calculation of Geographic Bank Metric.* The appropriate Federal banking agency 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 appropriate Federal banking agency calculates the Geographic Bank Metric by:

1. Summing, over the years in the evaluation period, the bank's or savings association'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 or savings association'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 appropriate Federal banking agency calculates the Geographic Market Benchmark for designated census tracts for each major product line, excluding automobile loans. The appropriate Federal banking agency 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 appro-

priate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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).

$$\frac{\text{Non - Farm Businesses in Low - Income Census Tracts (500)}}{\text{Businesses (4,000)}} \\ = \text{Geographic Community Benchmark (12.5\%)} \\ \frac{\text{Non - Farm Businesses in Moderate - Income Census Tracts (1,000)}}{\text{Businesses (4,000)}} \\ = \text{Geographic Community Benchmark (25\%)}$$

d. *Calculation of Geographic Market Benchmarks for the outside retail lending area.* For a bank's or savings association's outside retail lending area, the appropriate Federal banking agency 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 §25.18(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 or savings association'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 or savings association's outside retail lending area, the appropriate Federal banking agency 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 §25.18(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 or savings association'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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 or savings associations and intermediate banks or savings associations without data collection, maintenance and reporting requirements, the appropriate Federal banking agency will use data collected by the bank or savings association in the ordinary course of business or through sampling of bank or savings association loan data.

a. *Calculation of Borrower Bank Metric.* The appropriate Federal banking agency 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 or savings association'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 or savings association's annual number of originated and purchased loans in the major product line in the Retail Lending Test Area.

$$\frac{\text{Bank Loans to Low – Income Borrowers (20)}}{\text{Bank Loans (100)}} = \text{Borrower Bank Metric (20\%)}$$

$$\frac{\text{Bank Loans to Moderate – Income Borrowers (30)}}{\text{Bank Loans (100)}} = \text{Borrower Bank Metric (30\%)}$$

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 appropriate Federal banking agency 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

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).

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 borrowers 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 or savings association's outside retail

lending area, the appropriate Federal banking agency 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 §25.18(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 or savings association'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 or savings association's outside retail lending area, the appropriate Federal banking agency calculates the Borrower Community Benchmark for each major product line and for each category of designated borrowers in the bank's or savings association'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 §25.18(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 or savings association'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 appropriate Federal banking agency evaluates a bank's or savings association's Retail Lending Test performance in each Retail Lending Test Area by comparing the bank's or savings association'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 appropriate Federal banking agency 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.
Small Business Loans	Moderate-Income Census Tracts	Moderate-Income Borrowers.
	Low-Income Census Tracts	Non-farm businesses with Gross Annual Revenues of \$250,000 or Less.
Small Farm Loans	Moderate-Income Census Tracts	Non-farm businesses with Gross Annual Revenues Greater than \$250,000 but Less Than or Equal to \$1 million.
	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 or savings association's geographic distributions for each major product line, excluding automobile lending, the appropriate Federal banking

agency compares the relevant Geographic Bank Metric for each category of designated census tracts to the applicable set of performance ranges. The performance ranges

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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:

- 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 appropriate Federal banking agency 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 deter-

mined 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 or savings association’s borrower distributions for each major product line, excluding automobile lending, the appropriate Federal banking agency 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 appropriate Federal banking agency 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 or savings association for which automobile lending is evaluated under §25.22, the appropriate Federal banking agency 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.

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.

b. *Geographic distribution.* The appropriate Federal banking agency develops the supporting conclusion for a bank’s or savings association’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 appropriate Federal banking agency develops the supporting conclusion for a bank’s or savings association’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 appropriate Federal banking agency determines a bank’s or savings association’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 appropriate Federal banking agency develops a weighted average performance score for each major product line in each Retail Lending Test Area as follows:

i. The appropriate Federal banking agency 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—Continued

Major product line	Category of designated census tracts	Weight
Small Business Loans	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.
	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.
Small Farm Loans	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.
	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.
Automobile Loans	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.
	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.
	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 or savings association 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 as-

signed 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.

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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 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.
	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.

TABLE 4 TO APPENDIX A—RETAIL LENDING TEST, BORROWER DISTRIBUTION AVERAGE—WEIGHTS—Continued

Major product line	Categories of designated borrowers	Weight
Small Farm Loans	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.
	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.
Automobile Loans	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 $[14 \text{ percent}/(14 \text{ percent} + 6 \text{ percent}) = 70 \text{ percent}]$ and the weight assigned to the moderate-income borrower distribution performance score is 30 percent $[6 \text{ percent}/(14 \text{ percent} + 6 \text{ percent}) = 30 \text{ percent}]$. The bank's borrower distribution average for closed-end home mortgage loans in this facility-based assessment area is 8.8 $[(10 \text{ points} \times 0.7 \text{ weight} = 7.0) + (6 \text{ points} \times 0.3 \text{ weight} = 1.8)]$.

2. For each major product line, the appropriate Federal banking agency calculates the average of the geographic distribution average and the borrower distribution average (i.e., *product line score*). If a bank or savings association 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 $[(3.8 \text{ geographic distribution average} \times 0.5 \text{ weight} = 1.9) + (8.8 \text{ borrower distribution average} \times 0.5 \text{ weight} = 4.4)]$.

b. For each Retail Lending Test Area, the appropriate Federal banking agency 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 appropriate Federal banking agency uses a ratio of the bank's or savings association'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 § 25.12, 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 $[(6.3 \text{ closed-end home mortgage loan product line score} \times 0.6 \text{ weight} = 3.78) + (4.2 \text{ small business loan product line score} \times 0.4 \text{ weight} = 1.68)]$.

c. The appropriate Federal banking agency 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.
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 § 25.21(d) and the additional factors provided in § 25.22(g) inform the appropriate Federal banking agency'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 appropriate Federal banking agency develops the Retail Lending Test conclusions for States, multistate MSAs, and the institution as described in this section.

a. The appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency considers facility-based assessment areas and retail lending assessment areas in the State or multistate MSA pursuant to §25.28(c). For the weighted average for the institution, the appropriate Federal banking agency considers all of the bank's or savings association's facility-based assessment areas and retail lending assessment areas and, as applicable, the bank's or savings association'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 or savings association's deposits in the Retail Lending Test Area, calculated by:

i. Summing, over the years in the evaluation period, the bank's or savings association's annual dollar volume of deposits in the Retail Lending Test Area.

ii. Summing, over the years in the evaluation period, the bank's or savings association'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 or savings association that reports deposits data pursuant to §25.42(b)(3), the bank's or savings association'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 or savings association in counties in the Retail Lending Test Area for that year. For a bank or savings association that does not report deposits data pursuant to §25.42(b)(3), the bank's or savings association's annual dollar volume of deposits in a Retail Lending Test Area is the total of deposits assigned to facilities reported by the bank or savings association 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 or savings association's loans in the Retail Lending Test Area, based on the combination of loan dollars and loan count, as defined in §25.12, calculated by dividing:

i. The bank's or savings association's closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank or savings association, automobile loans in the Retail Lending Test Area originated or purchased during the evaluation period; by

ii. The bank's or savings association's closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank or savings association, 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 appropriate Federal banking agency 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 §25.21(d) to inform the appropriate Federal banking agency's determination of the bank's or savings association's Retail Lending Test conclusion 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 §25.12). 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 §25.12). 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 §25.12). 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 §25.12). 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 §25.21(d) may inform the appropriate Federal banking agency'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

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level is “High Satisfactory.” Relevant performance context information provided in § 25.21(d) may inform the appropriate Federal banking agency’s determination of the bank’s conclusion at the institution level.

[89 FR 7165, Feb. 1, 2024]

EFFECTIVE DATE NOTE: At 89 FR 7168, Feb. 1, 2024, appendix A to part 25 was amended by:

a. Adding a sentence to the end of paragraph I.a.1;

b. Removing the text “subject to reporting pursuant to § 25.42(b)(1), 12 CFR 228.42(b)(1) or 345.42(b)(1),” from paragraph I.b introductory text and adding in its place the text “subject to reporting pursuant to subpart B of 12 CFR part 1002”;

c. Adding a sentence to 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 to 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 is delayed indefinitely. For the convenience of the user, the added and revised text is set forth as follows:

APPENDIX A TO PART 25—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 establish-

ments in low-income census tracts over the years in the evaluation period (200 small business establishments in year 1, 150 small business 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 Benchmark for small business loans in moderate-income census tracts would be 1,000 divided 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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.

* * * *

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4. For small business loans, the appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency 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 borrowers
* * * * *	* * * * *	* * * * *
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. * * *

i. * * *

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.

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 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.
	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 25—CALCULATIONS
FOR THE COMMUNITY DEVELOPMENT
TESTS

This appendix, based on requirements described in §§25.24 through 25.26 and 25.28, 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 §25.24—Calculations for Metrics, Benchmarks, and Combining Performance Scores

III. Community Development Financing Test for Limited Purpose Banks and Savings Associations in §25.26—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 §25.24 and Community Development Financing Test for Limited Purpose Banks and Savings Associations in §25.26, the appropriate Federal banking

agency 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 appropriate Federal banking agency determines 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 appropriate Federal banking agency calculates the community development financing metrics and benchmarks in §§25.24 and 25.26 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 appropriate Federal banking agency 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 §25.21(b) and (c) (*e.g.*, an affiliate community development loan) in the numerator of the metrics and benchmarks. The appropriate Federal banking agency 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 pur-

chased 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.i.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 §§25.24 and 25.26, the appropriate Federal banking agency 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 §25.24, the appropriate Federal banking agency 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 §25.42 or 12 CFR 228.42 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 §25.42 or 12 CFR 228.42 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 §25.26, the appropriate Federal banking agency 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.

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.

b. *Allocation of community development loans and community development investments.* 1. *In general.* For the Community Development Financing Test in §25.24 and the Community Development Financing Test for Limited Purpose Banks and Savings Associations in §25.26, the appropriate Federal banking agency considers community development loans and community development investments in the evaluation of a bank's or savings association'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 or savings association pursuant to § __.42(a)(5)(ii)(E) and the specific location, if available, pursuant to §25.42(a)(5)(ii)(D). As appropriate, the appropriate Federal banking agency 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 or savings association 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 or savings association 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 or savings association 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 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 ab-

sence of specific documentation, the appropriate Federal banking agency 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.
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.

²For the purposes of allocating community development loans and community development investments, the appropriate Federal banking agency considers low- or moderate-income families to be located in a State or

multistate MSA, as applicable, consistent with §25.28(c).

II. COMMUNITY DEVELOPMENT FINANCING TEST IN §25.24—CALCULATIONS FOR METRICS, BENCHMARKS, AND COMBINING PERFORMANCE SCORES

The calculations for metrics, benchmarks, and combination of performance scores for Community Development Financing Test in §25.24 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 appropriate Federal banking agency calculates the Bank Assessment Area Community Development Financing Metric in §25.24(b)(1) by:

1. Summing the bank's or savings association'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 or savings association'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 appropriate Federal banking agency calculates the Assessment Area Community Development Financing Benchmark in §25.24(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).

vestments 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 appropriate Federal banking agency calculates an MSA Nationwide Community Development Financing Benchmark to be used for each MSA in which the bank or savings association has a facility-based assessment area in the MSA. The appropriate Federal banking agency calculates a Nonmetropolitan Nationwide Community Development Financing Benchmark to be used for each nonmetropolitan area in which the bank or savings association has a facility-based assessment area in the nonmetropolitan area.

1. *MSA Nationwide Community Development Financing Benchmark.* The appropriate Federal banking agency calculates the MSA Nationwide Community Development Financing Benchmark in §25.24(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.

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 billion. 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).

Community development loans and investments
nationwide in metropolitan areas by all large depository institutions (\$300 billion)

Deposits nationwide in metropolitan areas in all large depository institutions (\$45 trillion)

= *Metropolitan Nationwide Community Development Financing Benchmark (0.7%)*

2. *Nonmetropolitan Nationwide Community Development Financing Benchmark.* The appropriate Federal banking agency calculates the Nonmetropolitan Nationwide Community Development Financing Benchmark in §25.24(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 na-

tionwide 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 investments 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).

$$\frac{\text{Community development loans and investments nationwide in nonmetropolitan areas by all large depository institutions (\$10 billion)}}{\text{Deposits nationwide in nonmetropolitan areas in all large depository institutions (\$1 trillion)}} = \text{Nonmetropolitan Nationwide Community Development Financing Benchmark (1\%)}$$

d. *Bank State Community Development Financing Metric.* The appropriate Federal banking agency calculates the Bank State Community Development Financing Metric in §25.24(c)(2)(i) for each State in which the bank or savings association has a facility-based assessment area by:

1. Summing the bank's or savings association'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 or savings association'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 or savings association'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 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 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).

$$\frac{\text{Bank's community development loans and investments in the State (\$50 million)}}{\text{Deposits in the bank in the State (\$5 billion)}}$$

$$= \text{State Community Development Financing Metric (1\%)}$$

e. *State Community Development Financing Benchmark.* The appropriate Federal banking agency calculates the State Community Development Financing Benchmark in §25.24(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 investments 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).

$$\frac{\text{Community development loans and investments} \\ \text{in the State by all large depository institutions } (\$7.5 \text{ billion})}{\text{Deposits in the State in all large depository institutions } (\$500 \text{ billion})} \\ = \text{State Community Development Financing Benchmark (1.5\%)}$$

f. *State Weighted Assessment Area Community Development Financing Benchmark.* The appropriate Federal banking agency calculates the State Weighted Assessment Area Community Development Financing Benchmark in §25.24(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 appropriate Federal banking agency does not evaluate the bank's automobile lending.

• 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 §25.12, 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.

$$\frac{\text{Percent of deposits (70\%)} + \text{Percent of lending (60\%)}}{2}$$

$$= \text{Weight for FBAA} - 1 \text{ (65\%)}$$

- 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.

$$\frac{\text{Percent of lending dollar volume (35\%)} + \text{Percent of loans (45\%)}}{2}$$

$$= \text{Percent of lending FBAA} - 2 \text{ (40\%)}$$

- The weight for FBAA-2 is 35 percent.

$$\frac{\text{Percent of deposits (30\%)} + \text{Percent of lending (40\%)}}{2} = \text{Weight for FBAA} - 2 \text{ (35\%)}$$

- Applying the calculated weights for FBAA-1 and FBAA-2:

- 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 appropriate Federal banking agency calculates the Bank Multistate MSA Community Development Financing Metric in §25.24(d)(2)(i) for each multistate MSA in which the bank or savings association has a facility-based assessment area by:

1. Summing the bank's or savings association'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 or savings association'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 or savings association'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 appropriate Federal banking agency calculates the Multistate MSA Community Development Financing Benchmark in §25.24(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 develop-

ment 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%)

1. *Multistate MSA Weighted Assessment Area Community Development Financing Benchmark.* The appropriate Federal banking agency calculates the Multistate MSA Weighted Assessment Area Community Development Financing Benchmark in §25.24(c)(3)(ii)(B)(2) by averaging all of the bank's or savings association'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 appropriate Federal banking agency 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

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	FBAA-1	FBAA-2
% 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 §25.12, for FBAA-1 is 60 percent.

$$\frac{\text{Percent of lending dollar volume (55\%)} + \text{Percent of loans (65\%)}}{2}$$

$$= \text{Percent of lending FBAA} - 1 \text{ (60\%)}$$

- The weight for FBAA-1 is 65 percent.

$$\frac{\text{Percent of deposits (70\%)} + \text{Percent of lending (60\%)}}{2} = \text{Weight for FBAA} - 1 \text{ (65\%)}$$

- 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 §25.12, 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 appropriate Federal banking agency calculates the Bank Nationwide Community Development Financing Metric in §25.24(e)(2)(i) for the nationwide area by:

1. Summing the bank's or savings association'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 or savings association'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 or savings association'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 nation-

wide 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).

$$\begin{aligned} & \text{Bank's community development loans and investments nationwide (\$200 million)} \\ & \text{Deposits nationwide in the bank (\$8 billion)} \\ & = \text{Nationwide Community Development Financing Metric (2.5\%)} \end{aligned}$$

k. *Nationwide Community Development Financing Benchmark.* The appropriate Federal banking agency calculates the Nationwide Community Development Financing Benchmark in §25.24(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 in-

vestments 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).

$$\begin{aligned} & \text{Community development loans and investments} \\ & \text{nationwide by all large depository institutions (\$310 billion)} \\ & \text{Deposits nationwide in all large depository institutions (\$46 trillion)} \\ & = \text{Nationwide Community Development Financing Benchmark (0.67\%)} \end{aligned}$$

1. *Nationwide Weighted Assessment Area Community Development Financing Benchmark.* The appropriate Federal banking agency calculates the Nationwide Weighted Assessment Area Community Development Financing Benchmark in §25.24(e)(2)(ii)(B) by averaging all of the bank's or savings association's Assessment Area Community Development Fi-

nancing 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).

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• 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%

- *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 §25.12, for FBAA-1 is 50 percent.

$$\frac{\text{Percent of lending dollar volume (40\%)} + \text{Percent of loans (60\%)}}{2}$$

$$= \text{Percent of lending FBAA} - 1 \text{ (50\%)}$$

- The weight for FBAA-1 is 55 percent.

$$\frac{\text{Percent of deposits (60\%)} + \text{Percent of lending (50\%)}}{2}$$

$$= \text{Weight for FBAA} - 1 \text{ (55\%)}$$

- *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 §25.12, for FBAA-2 is 40 percent.

$$\frac{\text{Percent of lending dollar volume (45\%)} + \text{Percent of loans (35\%)}}{2}$$

$$= \text{Percent of lending FBAA} - 2 \text{ (40\%)}$$

- The weight for FBAA–2 is 35 percent.

$$\frac{\text{Percent of deposits (30\%)} + \text{Percent of lending (40\%)}}{2}$$

$$= \text{Weight for FBAA} - 2 \text{ (35\%)}$$

- *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 §25.12, 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 appropriate Federal banking agency calculates the Bank Nation-

wide Community Development Investment Metric in §25.24(e)(2)(iii) for the nationwide area by:

1. Summing the bank's or savings association'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 or savings association'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 or savings association'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 commu-

nity 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).

Bank's community development investments nationwide (\$2 billion)

Deposits at the bank nationwide (\$80 billion)

= Nationwide Community Development Investment Metric (2.5%)

n. *Nationwide Community Development Investment Benchmark.* The appropriate Federal banking agency calculates the Nationwide Community Development Investment Benchmark in §25.24(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 an-

nual 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 billion (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 appropriate Federal banking agency calculates a weighted average of the Assessment Area Community Development Financing Benchmarks for a bank's or savings association's facility-based assessment areas in each State or multistate MSA, as applicable, or the na-

tionwide area. For the weighted average for a State or multistate MSA, the appropriate Federal banking agency considers Assessment Area Community Development Financing Benchmarks for facility-based assessment areas in the State or multistate MSA

pursuant to §25.28(c). For the weighted average for the nationwide area, the appropriate Federal banking agency considers Assessment Area Community Development Financing Benchmarks for all of the bank's or savings association'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 or savings association in the facility-based assessment area, calculated by:

i. Summing, over the years in the evaluation period, the bank's or savings association's annual dollar volume of deposits in the facility-based assessment area.

ii. Summing, over the years in the evaluation period, the bank's or savings association'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 or savings association that reports deposits data pursuant to §25.42(b)(3), the bank's or savings association'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 or savings association in counties in the facility-based assessment area for that year. For a bank or savings association that does not report deposits data pursuant to §25.42(b)(3), the bank's or savings association's annual dollar volume of deposits in a facility-based assessment area is the total of deposits assigned to facilities reported by the bank or savings association 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 or savings association's loans in the facility-based assessment area, based on the combination of loan dollars and loan count, as defined in §25.12, calculated by dividing:

i. The bank's or savings association's closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank or savings association, automobile loans in the facility-based assessment area originated or purchased during the evaluation period; by

ii. The bank's or savings association's closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank or savings association, 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 re-*

sponsiveness reviews. 1. As described in §25.24(c) through (e), the appropriate Federal banking agency 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 or savings association's performance under the Community Development Financing Test in each State or multistate MSA, as applicable pursuant to §25.28(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 appropriate Federal banking agency bases a Community Development Financing Test combined performance score on the following:

i. *Component one—Weighted average of the bank's or savings association's performance scores corresponding to facility-based assessment area conclusions.* The appropriate Federal banking agency 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 and savings association 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 appropriate Federal banking agency 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 or savings association's community development loans and community development investments. In the nationwide area, for large banks or savings associations that had assets greater than \$10 billion as of December 31 in both of the prior two calendar years, the appropriate Federal banking agency also considers whether the bank's or savings association's performance under the Nationwide Community Development Investment Metric, compared to the Community Development Investment Benchmark, contributes positively to the bank's or savings association's Community Development Financing Test conclusion.

iii. *Combined score.* The appropriate Federal banking agency associates the performance score calculated pursuant to this paragraph II.p.2.iii with a conclusion category. The appropriate Federal banking agency derives

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the combined performance score corresponding to a conclusion category as follows:

A. The appropriate Federal banking agency 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 §25.12, of the bank's or savings association'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 or savings association'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 or savings association 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 §25.42(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 benchmarks 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 §25.12) during the evaluation period are associated with its facility-based assessment areas.

• The appropriate Federal banking agency 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 §25.12, as-

sociated 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 \times 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 \times 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 AND SAVINGS ASSOCIATIONS IN § 25.26—CALCULATIONS FOR METRICS AND BENCHMARKS

The calculations for metrics and benchmarks for Community Development Financing Test for Limited Purpose Banks and Savings Associations in § 25.26 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 appropriate Federal banking agency calculates the Limited Purpose Bank Community Development Financing Metric provided in § 25.26 by:

1. Summing the bank's or savings association'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 or savings association'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 appropriate Federal banking agency 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 or savings associations pursuant to § 25.26(a) or designated as limited purpose banks or savings associations pursuant to 12 CFR 228.26(a) or 345.26(a) reported pursuant to § 25.42(b) or 12 CFR 228.42(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 or savings associations pursuant to § 25.26(a) or designated as limited purpose banks or savings associations pursuant to 12 CFR 228.26(a) or 345.26(a) that reported community development loans and community

development investments pursuant to § 25.42(b) or 12 CFR 228.42(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 appropriate Federal banking agency 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 § 25.42(b) or 12 CFR 228.42(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 § 25.42(b) or 12 CFR 228.42(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 and savings association Community Development Investment Metric.* The appropriate Federal banking agency calculates the Limited Purpose Bank Nationwide Community Development Investment Metric, provided in § 25.26(f)(2)(iii), for the nationwide area by:

1. Summing the bank's or savings association'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 or savings association'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 investments (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 appropriate Federal banking agency calculates the Nationwide Asset-Based Community Development Investment Benchmark, provided in § 25.26(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 an-

nual dollar volumes of community development 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 appropriate Federal banking agency 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 § 25.24 and a performance score for the Community Development Services Test in § 25.25 in each State, multistate MSA, and the nationwide area, as applicable, as described in this section.

a. The appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency considers facility-based assessment areas in the State or multistate MSA pursuant to § 25.28(c). For the weighted average for the institution, the

appropriate Federal banking agency considers all of the bank's or savings association'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 or savings association in the facility-based assessment area, calculated by:

i. Summing, over the years in the evaluation period, the bank's or savings association's annual dollar volume of deposits in the facility-based assessment area.

ii. Summing, over the years in the evaluation period, the bank's or savings association'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 or savings association that reports deposits data pursuant to §25.42(b)(3), the bank's or savings association'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 or savings association in counties in the facility-based assessment area for that year. For a bank or savings association that does not report deposits data pursuant to §25.42(b)(3), the bank's or savings association's annual dollar volume of deposits in a facility-based assessment area is the total of deposits assigned to facilities reported by the bank or savings association 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 or savings association's loans in the facility-based assessment area, based on the combination of loan dollars and loan count, as defined in §25.12, calculated by dividing:

i. The bank's or savings association's closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank or savings association, automobile loans in the facility-based assessment area originated or purchased during the evaluation period; by

ii. The bank's or savings association's closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank or savings association, 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.

[89 FR 7165, Feb. 1, 2024]

APPENDIX C TO PART 25—PERFORMANCE TEST CONCLUSIONS

a. *Performance test conclusions, in general.* For a bank or savings association evaluated under, as applicable, the Retail Lending Test in §25.22, the Retail Services and Products Test in §25.23, the Community Development Financing Test in §25.24, the Community Development Services Test in §25.25, and the Community Development Financing Test for Limited Purpose Banks and Savings Associations in §25.26, the appropriate Federal banking agency assigns conclusions for the bank's or savings association's CRA performance pursuant to these tests and this appendix. In assigning conclusions, the appropriate Federal banking agency may consider performance context information as provided in §25.21(d).

b. *Retail Lending Test conclusions.* The appropriate Federal banking agency assigns Retail Lending Test conclusions for each applicable Retail Lending Test Area, each State or multistate MSA, as applicable pursuant to §25.28(c), and for the institution.

1. *Retail Lending Test Area.* For each applicable Retail Lending Test Area, the appropriate Federal banking agency assigns a Retail Lending Test conclusion and corresponding performance score pursuant to §25.22(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 appropriate Federal banking agency assigns the Retail Lending Test conclusions for a bank's or savings association'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 appropriate Federal banking agency assigns Retail Services and Products Test conclusions for each facility-based assessment area, for each State or multistate MSA, as applicable pursuant to §25.28(c), and for the institution. For a bank or savings association that does not operate any branches, a main office described in §25.23(a)(2), or remote service facilities, the appropriate Federal banking agency assigns the bank's or savings association'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 appropriate Federal banking agency assigns a Retail Services and Products Test conclusion

for a bank's or savings association's performance in a facility-based assessment area based on an evaluation of the bank's or savings association's branch availability and services and remote services facilities availability, if applicable, pursuant to §25.23(b)(2) and (3), respectively.

2. *State, multistate MSA, and institution.* The appropriate Federal banking agency develops the Retail Services and Products Test conclusions for States, multistate MSAs, and the institution as described in this paragraph c.2.

1. The appropriate Federal banking agency 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 appropriate Federal banking agency 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 appropriate Federal banking agency considers facility-based assessment areas in the State or multistate MSA pursuant to §25.28(c). For the weighted average for the institution, the appropriate Federal banking agency considers all of the bank's or savings association'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 or savings association's deposits in the facility-based assessment area, calculated by:

1. Summing, over the years in the evaluation period, the bank's or savings association's annual dollar volume of deposits in the facility-based assessment area.

2. Summing, over the years in the evaluation period, the bank's or savings association'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 or savings association that reports deposits data pursuant to §25.42(b)(3), the bank's or savings association'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 or savings association in counties

in the facility-based assessment area for that year. For a bank or savings association that does not report deposits data pursuant to §25.42(b)(3), the bank's or savings association's annual dollar volume of deposits in a facility-based assessment area is the total of deposits assigned to facilities reported by the bank or savings association 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 or savings association's loans in the facility-based assessment area, based on the combination of loan dollars and loan count, as defined in §25.12, calculated by dividing:

1. The bank's or savings association's closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank or savings association, automobile loans in the facility-based assessment area originated or purchased during the evaluation period; by

2. The bank's or savings association's closed-end home mortgage loans, small business loans, small farm loans, and, if a product line for the bank or savings association, 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 appropriate Federal banking agency 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 appropriate Federal banking agency assigns a Retail Services and Products Test conclusion based on the bank's or savings association's combined retail banking services conclusion, developed pursuant to paragraph c.2.iv.A of this appendix, and an evaluation of the bank's or savings association's retail banking products, pursuant to paragraph c.2.iv.B of this appendix. The appropriate Federal banking agency translates the Retail Services and Products Test conclusion for the institution 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

A. *Combined retail banking services conclusion.* 1. *In general.* The appropriate Federal banking agency evaluates the bank's or savings association'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 or savings association without branches, a main office described in § 25.23(a)(2), or remote service facilities, the appropriate Federal banking agency 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 appropriate Federal banking agency assigns a digital delivery systems and other delivery systems conclusion based on an evaluation of a bank's or savings association's digital delivery systems and other delivery systems pursuant to § 25.23(b)(4).

B. *Retail banking products evaluation.* The appropriate Federal banking agency evaluates the bank's or savings association's retail banking products offered in the bank's or savings association's facility-based assessment areas and nationwide, as applicable, as follows:

1. *Credit products and programs.* The appropriate Federal banking agency evaluates the bank's or savings association's performance regarding its credit products and programs pursuant to § 25.23(c)(2) and determines whether the bank's or savings association's performance contributes positively to the bank's or savings association'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 appropriate Federal banking agency evaluates the bank's or savings association's performance regarding its deposit products pursuant to § 25.23(c)(3), as applicable, and determines whether the bank's or savings association's performance contributes positively to the bank's or savings association'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 or savings association's retail banking products evaluated pursuant to § 25.23(c) may positively impact the bank's or savings association's Retail Services and Products Test conclusion. The bank's or savings association's lack of responsive retail banking products does not adversely affect the bank's or savings association's Retail Services and Products Test performance conclusion.

d. *Community Development Financing Test conclusions.* The appropriate Federal banking agency assigns Community Development Financing Test conclusions for each facility-based assessment area, each State or multistate MSA, as applicable pursuant to § 25.28(c), and for the institution.

1. *Facility-based assessment area.* For each facility-based assessment area, the appropriate Federal banking agency assigns a Community Development Financing Test conclusion and corresponding performance score based on the metric and benchmarks as provided in § 25.24 and a review of the impact and responsiveness of a bank's or savings association's activities as provided in § 25.15 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 appropriate Federal banking agency assigns Community Development Financing Test conclusions for a bank's or savings association's performance in each State and multistate MSA, as applicable pursuant to § 25.28(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 appropriate Federal banking agency assigns Community Development Services Test conclusions for each facility-based assessment area, each State or multistate MSA, as applicable pursuant to § 25.28(c), and for the institution.

1. *Facility-based assessment area.* For each facility-based assessment area, the appropriate Federal banking agency develops a Community Development Services Test conclusion based on the extent to which a bank or savings association provided community development services, considering the factors in § 25.25(b). The appropriate Federal banking agency translates the conclusion for each facility-based assessment area 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

2. *State, multistate MSA, or nationwide area.* For each State or multistate MSA, as applicable pursuant to §25.28(c), and the nationwide area, the appropriate Federal banking agency develops a Community Development Services Test conclusion as follows:

i. The appropriate Federal banking agency 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 appropriate Federal banking agency assigns a Community Development Services Test conclusion corresponding 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 appropriate Federal banking agency 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 §25.19. 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 appropriate Federal banking agency 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 and Savings Associations conclusions.* The appropriate Federal banking agency assigns conclusions for each facility-based assessment area, each State or multistate MSA, as applicable pursuant to §25.28(c), and for the institution.

1. *Facility-based assessment area.* For each facility-based assessment area, the appropriate Federal banking agency assigns one of the following Community Development Financing Test for Limited Purpose Banks and Savings Associations conclusions based on consideration of the dollar volume of a bank's or savings association'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 or savings association's activities in the facility-based assessment area as provided in §25.15: "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 §25.28(c), the appropriate Federal banking agency assigns a Community Development Financing Test for Limited Purpose Banks and Savings Associations conclusion of "Outstanding," "High Satisfactory," "Low Satisfactory," "Needs to Improve," or "Substantial Noncompliance" based on the following:

i. The bank's or savings association's facility-based assessment area performance test conclusions in each State or multistate MSA, as applicable;

ii. The dollar volume of a bank's or savings association'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 or savings association's activities in the State or multistate MSAs, as provided in §25.15.

3. *Institution.* For the institution, the appropriate Federal banking agency assigns a Community Development Financing Test for Limited Purpose Banks and Savings Associations conclusion of "Outstanding," "High Satisfactory," "Low Satisfactory," "Needs to Improve," or "Substantial Noncompliance" based on the following:

i. The bank's or savings association's community development financing performance in all of its facility-based assessment areas;

ii. The appropriate Federal banking agency's comparison of the bank's or savings association'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 appropriate Federal banking agency's comparison of the bank's or savings association'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 or savings association's activities in a nationwide area as provided in § 25.15.

g. *Strategic Plan conclusions.* The appropriate Federal banking agency assigns conclusions for a bank or savings association 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 § 25.28(c), and for the institution. The appropriate Federal banking agency assigns conclusions consistent with the methodology set forth by the bank or savings association in its plan. For elements of the plan that correspond to performance tests that would apply to the bank or savings association 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.

[89 FR 7165, Feb. 1, 2024]

APPENDIX D TO PART 25—RATINGS

a. *Ratings, in general.* In assigning a rating, the appropriate Federal banking agency evaluates a bank's or savings association's performance under the applicable performance criteria in this part, pursuant to §§ 25.21 and 25.28. The agency calculates an overall performance score for each State and multistate MSA, as applicable pursuant to § 25.28(c), and for the institution. The appropriate Federal banking agency assigns a rating of "Outstanding," "Satisfactory," "Needs to Improve," or "Substantial Non-compliance" for the bank's or savings association's performance in each State and multistate MSA, as applicable pursuant to § 25.28(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 appropriate Federal banking agency also considers any evidence of discriminatory or other illegal credit practices pursuant to § 25.28(d) and the bank's or savings association's past performance pursuant to § 25.28(e).

b. *Large bank or savings association ratings at the State, multistate MSA, and institution levels.* Subject to paragraph g of this appendix, the appropriate Federal banking agency combines a large bank's or savings association's performance scores for its State, multistate MSA, or institution-level performance under the Retail Lending Test in § 25.22, Retail Services and Products Test in § 25.23, Community Development Financing Test in § 25.24, and Community Development Services Test in § 25.25 to determine the bank's or savings association's rating in each State or multistate MSA, as applicable pursuant to § 25.28(c), and for the institution.

1. The appropriate Federal banking agency 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 appropriate Federal banking agency multiplies each of these weights by the bank's or savings association'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 appropriate Federal banking agency 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 or savings association ratings.* 1. *Intermediate banks or savings associations evaluated pursuant to the Retail Lending Test and the Community Development Financing Test.* Subject to paragraph g of this appendix, the appropriate Federal banking agency combines an intermediate bank's or savings association'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 or savings association's rating in each State or multistate MSA, as applicable pursuant to § 25.28(c), and for the institution.

i. The appropriate Federal banking agency weights the performance scores as follows: Retail Lending Test (50 percent) and Community Development Financing Test (50 percent). The appropriate Federal banking agency multiplies each of these weights by the bank's or savings association'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 appropriate Federal banking agency 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 appropriate Federal banking agency may adjust an intermediate bank's or savings association's institution rating where the bank or savings association has requested and received sufficient additional consideration pursuant to § 25.30(b)(2) and (3).

2. *Intermediate banks or savings associations evaluated pursuant to the Retail Lending Test and the Intermediate Bank and Savings Association Community Development Test in § 25.30(a)(2).* The appropriate Federal banking agency combines an intermediate bank's or savings association's performance scores for its State, multistate MSA, or institution conclusions under the Retail Lending Test and the Intermediate Bank and Savings Association Community Development Test in § 25.30(a)(2) to determine the bank's or savings association's rating in each State or multistate MSA, as applicable pursuant to § 25.28(c), and for the institution.

i. The appropriate Federal banking agency weights the performance scores as follows: Retail Lending Test (50 percent) and Intermediate Bank and Savings Association Community Development Test (50 percent). The appropriate Federal banking agency multiplies each of these weights by the bank's or savings association'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 and Savings Association 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 appropriate Federal banking agency 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 appropriate Federal banking agency may adjust an intermediate bank's or savings association's institution rating where the bank or savings association has requested and received sufficient additional consideration pursuant to § 25.30(b)(1) and (3).

d. *Small bank or savings association ratings.* 1. *Ratings for small banks or savings associations that opt to be evaluated pursuant to the Retail Lending Test in § 25.22.* The appropriate Federal banking agency determines a small bank's or savings association's rating for each State or multistate MSA, as applicable pursuant to § 25.28(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 appropriate Federal banking agency 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 appropriate Federal banking agency may adjust a small bank's or savings association's institution rating where the bank or savings association has requested and received sufficient additional consideration pursuant to § 25.29(b)(2) and (3).

2. *Ratings for small banks or savings associations evaluated under the Small Bank and Savings Association Lending Test pursuant to § 25.29(a)(2).* The appropriate Federal banking agency assigns a rating for small banks or savings associations evaluated under the

Small Bank and Savings Association Lending Test pursuant to § 25.29(a)(2) as provided in appendix E to this part.

e. *Limited purpose banks or savings associations.* The appropriate Federal banking agency determines a limited purpose bank's or savings association's rating for each State or multistate MSA, as applicable pursuant to § 25.28(c), and for the institution based on the performance score for its Community Development Financing Test for Limited Purpose Banks and Savings Associations conclusion for the State, multistate MSA, or the institution, respectively.

1. The appropriate Federal banking agency 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 appropriate Federal banking agency may adjust a limited purpose bank's or savings association's institution rating where the bank or savings association has requested and received sufficient additional consideration pursuant to § 25.26(b)(2).

f. *Ratings for banks or savings associations operating under an approved strategic plan.* The appropriate Federal banking agency evaluates the performance of a bank or savings association operating under an approved plan consistent with the rating methodology that is specified in the plan pursuant to § 25.27(g)(6). The appropriate Federal banking agency assigns a rating according to the category assigned under the rating methodology specified in the plan: "Outstanding," "Satisfactory," "Needs to Improve," or "Substantial Noncompliance."

g. *Minimum performance test conclusion requirements.* 1. *Retail Lending Test minimum conclusion.* An intermediate bank or savings association or a large bank or savings association 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 § 25.51(e), a large bank or savings association 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 or savings association 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 appropriate Federal banking agency calculates an overall conclusion in a facility-based assessment area by combining a large bank's or savings association's performance scores for its conclusions in the facility-based assessment area pursuant to the Retail Lending Test in § 25.22, Retail Services and Products Test in § 25.23, Community Development Financing Test in § 25.24, and Community Development Services Test in § 25.25.

The appropriate Federal banking agency 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 appropriate Federal banking agency multiplies each of these weights by the bank's or savings association'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 appropriate Federal banking agency 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 § 25.22 as provided in appendix C to this part.

[89 FR 7165, Feb. 1, 2024]

APPENDIX E TO PART 25—SMALL BANK AND SAVINGS ASSOCIATION AND INTERMEDIATE BANK AND SAVINGS ASSOCIATION PERFORMANCE EVALUATION CONCLUSIONS AND RATINGS

a. *Small banks or savings associations evaluated under the small bank or savings association performance evaluation.* 1. *Small Bank and Savings Association Lending Test conclusions.* Unless a small bank or savings association opts to be evaluated pursuant to the Retail Lending Test in § 25.22, the appropriate Federal banking agency assigns conclusions for a small bank's or savings association's performance pursuant to the Small Bank and Savings Association Lending Test in § 25.29(a)(2) for each facility-based assessment area, in each State or multistate MSA, as applicable pursuant to § 25.28(c), and for

the institution of "Outstanding," "Satisfactory," "Needs to Improve," or "Substantial Noncompliance."

i. *Eligibility for a "Satisfactory" Small Bank and Savings Association Lending Test conclusion.* The appropriate Federal banking agency assigns a small bank's or savings association's performance pursuant to the Small Bank and Savings Association Lending Test a conclusion of "Satisfactory" if, in general, the bank or savings association demonstrates:

A. A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's or savings association'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 demographics of the bank's or savings association's facility-based assessment areas;

D. A reasonable geographic distribution of loans among census tracts of different income levels in the bank's or savings association'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 or savings association's performance in helping to meet the credit needs of its facility-based assessment areas.

ii. *Eligibility for an "Outstanding" Small Bank and Savings Association Lending Test conclusion.* A small bank or savings association 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 and Savings Association Lending Test conclusions.* A small bank or savings association 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 or savings association ratings.* Unless a small bank or savings association opts to be evaluated pursuant to the Retail Lending Test in §25.22, the appropriate Federal banking agency determines a small bank's or savings association's rating for

each State and multistate MSA, as applicable pursuant to §25.28(c), and for the institution based on its Small Bank and Savings Association Lending Test conclusions at the State, multistate MSA, and institution level, respectively.

i. The appropriate Federal banking agency 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 appropriate Federal banking agency may adjust a small bank's or savings association's institution rating where the bank or savings association has requested and received sufficient additional consideration pursuant to §25.29(b)(1) and (3).

iii. The appropriate Federal banking agency also considers any evidence of discriminatory or other illegal credit practices pursuant to §25.28(d) and the bank's or savings association's past performance pursuant to §25.28(e).

3. The appropriate Federal banking agency assigns a rating for small banks or savings associations evaluated pursuant to the Retail Lending Test in §25.22 as provided in appendix D to this part.

b. *Intermediate banks or savings associations evaluated pursuant to the Intermediate Bank and Savings Association Community Development Test in §25.30.* Unless an intermediate bank or savings association opts to be evaluated pursuant to the Community Development Financing Test in §25.24, the appropriate Federal banking agency assigns conclusions for an intermediate bank's or savings association's performance pursuant to the Intermediate Bank and Savings Association Community Development Test in §25.30 for each State and multistate MSA, as applicable pursuant to §25.28(c), and for the institution of "Outstanding," "High Satisfactory," "Low Satisfactory," "Needs to Improve," or "Substantial Noncompliance."

1. *Intermediate Bank and Savings Association Community Development Test conclusions.* i. *Eligibility for a "Satisfactory" Intermediate Bank and Savings Association Community Development Test conclusion.* The appropriate Federal banking agency assigns an intermediate bank's or savings association's community development performance a "Low Satisfactory" conclusion if the bank or savings association demonstrates adequate responsiveness, and a "High Satisfactory" conclusion if the bank or savings association 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 or savings association'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 and Savings Association Community Development Test conclusion.* The appropriate Federal banking agency assigns an intermediate bank’s or savings association’s community development performance an “Outstanding” conclusion if the bank or savings association 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 or savings association’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 Noncompliance” Intermediate Bank and Savings Association Community Development Test conclusions.* The appropriate Federal banking agency assigns an intermediate bank’s or savings association’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 or savings association ratings.* The appropriate Federal banking agency rates an intermediate bank’s or savings association’s performance as provided in appendix D to this part.

[89 FR 7165, Feb. 1, 2024]

APPENDIX F TO PART 25—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 [Office of the Comptroller of the Currency (OCC) or Federal Deposit Insurance Corporation (FDIC), as appropriate] evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The [OCC or FDIC, as appropriate] 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 [OCC or FDIC, as appropriate]; and comments re-

ceived 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 [OCC or FDIC, as appropriate] publishes a list of the banks that are scheduled for CRA examination by the [OCC or FDIC, as appropriate] for the next two quarters. This list is available through the [OCC’s or FDIC’s, as appropriate] website at [OCC.gov or FDIC.gov, as appropriate].

You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank), (title of responsible official), to the [OCC or FDIC Regional Director, as appropriate, (address)]. You may also submit comments electronically to the [OCC at CRAComments@occ.treas.gov or FDIC through the FDIC’s website at FDIC.gov/regulations/cra, as appropriate]. Your written comments, together with any response by us, will be considered by the [OCC or FDIC, as appropriate] in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the [OCC or FDIC Regional Director, as appropriate]. You may also request from the [OCC or FDIC Regional Director, as appropriate] an announcement of our applications covered by the CRA filed with the [OCC or FDIC, as appropriate]. [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 [Office of the Comptroller of the Currency (OCC) or Federal Deposit Insurance Corporation (FDIC), as appropriate] evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The [OCC or FDIC, as appropriate] 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 Performance Evaluation, prepared by the [OCC or FDIC, as appropriate], 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:

Comptroller of the Currency, Treasury

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(1) A map showing the facility-based assessment area containing this branch, which is the area in which the [OCC or FDIC, as appropriate] evaluates our CRA performance in this community;

(2) Information about our branches in this facility-based assessment area;

(3) A list of services we provide at those locations;

(4) Data on our lending performance in this facility-based assessment area; and

(5) Copies of all written comments received by us that specifically relate to our CRA performance in this facility-based 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 on our website (website address) and at (name of office located in State), located at (address).]

At least 30 days before the beginning of each calendar quarter, the [OCC or FDIC, as appropriate] publishes a list of the banks that are scheduled for CRA examination by the [OCC or FDIC, as appropriate] for the next two quarters. This list is available through the [OCC's or FDIC's, as appropriate] website at [OCC.gov or FDIC.gov, as appropriate].

You may send written comments about our performance in helping to meet community credit needs to (name and address of official at bank), (title of responsible official), to the [OCC or FDIC Regional Director, as appropriate (address)]. You may also submit comments electronically to the [OCC at CRAComments@occ.treas.gov or FDIC through the FDIC's website at FDIC.gov/regulations/cra, as appropriate]. Your written comment, together with any response by us, will be considered by the [OCC or FDIC, as appropriate] in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the [OCC or FDIC Regional Director, as appropriate]. You may also request from the [OCC or FDIC Regional Director, as appropriate] an announcement of our applications covered by the CRA filed with the [OCC or FDIC, as appropriate]. [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.]

[89 FR 7171, Feb. 1, 2024]

APPENDIX G TO PART 25—COMMUNITY REINVESTMENT ACT AND INTERSTATE DEPOSIT PRODUCTION REGULATIONS

EFFECTIVE DATE NOTE: At 89 FR 7172, Feb. 1, 2024, appendix G to part 25 was added, effective through Jan. 1, 2031.

NOTE: The content of this appendix reproduces part 25 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

§ 25.11 Authority, purposes, and scope.

(a) *Authority and OMB control number*—(1) *Authority.* The authority for subparts A, B, C, D, and E is 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1462a, 1463, 1464, 1814, 1816, 1828(c), 1835a, 2901 through 2908, 3101 through 3111, and 5412(b)(2)(B).

(2) *OMB control number.* The information collection requirements contained in this part were approved by the Office of Management and Budget under the provisions of 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 1557-0160.

(b) *Purposes.* In enacting the Community Reinvestment Act (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 Office of the Comptroller of the Currency (OCC) or the Federal Deposit Insurance Corporation (FDIC), as appropriate, assesses a bank's or savings association'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 or savings association; and

(2) Providing that the OCC takes that record into account in considering certain applications.

(c) *Scope*—(1) *General.* (i) Subparts A, B, C, and D, and Appendices A and B, apply to all banks and savings associations except as provided in paragraphs (c)(2) and (3) of this section. Subpart E only applies to banks.

(ii) With respect to subparts A, B, C, and D, and Appendices A and B—

(A) The OCC has the authority to prescribe these regulations for national banks, Federal

savings associations, and State savings associations and has the authority to enforce these regulations for national banks and Federal savings associations.

(B) The FDIC has the authority to enforce these regulations for State savings associations.

(iii) With respect to subparts A, B, C, and D, and appendix A, references to appropriate Federal banking agency will mean the OCC when the institution is a national bank or Federal savings association and the FDIC when the institution is a State savings association.

(2) *Federal branches and agencies.* (i) This part applies to all insured Federal branches and to any Federal branch that is uninsured 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)).

(ii) Except as provided in paragraph (c)(2)(i) of this section, this part does not apply to Federal branches that are uninsured, limited Federal branches, or Federal agencies, as those terms are defined in part 28 of this chapter.

(3) *Certain special purpose banks and savings associations.* This part does not apply to special purpose banks or special purpose savings associations 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 or savings associations include banker's banks, as defined in 12 U.S.C. 24(Seventh), and banks or savings associations that engage only in one or more of the following activities: Providing cash management controlled disbursement services or serving as correspondent banks or savings associations, trust companies, or clearing agents.

§ 25.12 Definitions.

For purposes of subparts A, B, C, and D, and appendices A and B, 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 § 25.41.

(d) *Automated teller machine (ATM)* means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank or savings association at which deposits are received, cash dispersed, or money lent.

(e)(1) *Bank or savings association* means, except as provided in § 25.11(c), a national bank (including a Federal branch as defined in part 28 of this chapter) with Federally insured deposits or a savings association;

(2) *Bank and savings association* means, except as provided in § 25.11(c), a national bank (including a Federal branch as defined in part 28 of this chapter) with Federally insured deposits and a savings association.

(f) *Branch* means a staffed banking facility authorized 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 of Governors of the Federal Reserve System, FDIC, and the OCC, 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 or savings association:

(i) Has not been reported or collected by the bank or savings association or an affiliate for consideration in the bank's or savings association'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 or savings association's assessment area(s) or a broader statewide or regional area(s) that includes the bank's or savings association'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 or savings association's retail banking services under §25.24(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 title;

(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* or savings association means a bank or savings association 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 or savings association is in effect, in accordance with §25.25(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 or savings association*—(1) *Definition*. *Small bank or savings association* means a bank or savings association that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.322 billion. *Intermediate small bank or savings association* means a small bank or savings association with assets of at least \$330 million as of December 31 of both of the prior two calendar years and less than \$1.322 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 appropriate Federal banking agency, 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 or savings association* means a bank or savings association 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 or savings association is in effect, in accordance with § 25.25(b).

Subpart B—Standards for Assessing Performance

§ 25.21 Performance tests, standards, and ratings, in general.

(a) *Performance tests and standards.* The appropriate Federal banking agency assesses the CRA performance of a bank or savings association in an examination as follows:

(1) *Lending, investment, and service tests.* The appropriate Federal banking agency applies the lending, investment, and service tests, as provided in §§ 25.22 through 25.24, in evaluating the performance of a bank or savings association, except as provided in paragraphs (a)(2), (3), and (4) of this section.

(2) *Community development test for wholesale or limited purpose banks and savings associations.* The appropriate Federal banking agency applies the community development test for a wholesale or limited purpose bank or savings association, as provided in § 25.25, except as provided in paragraph (a)(4) of this section.

(3) *Small bank and savings association performance standards.* The appropriate Federal banking agency applies the small bank or savings association performance standards as provided in § 25.26 in evaluating the performance of a small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year, unless the bank or savings association elects to be assessed as provided in paragraphs (a)(1), (2), or (4) of this section. The bank or savings association 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 or savings associations under § 25.42.

(4) *Strategic plan.* The appropriate Federal banking agency evaluates the performance of a bank or savings association under a strategic plan if the bank or savings association submits, and the appropriate Federal banking agency approves, a strategic plan as provided in § 25.27.

(b) *Performance context.* The appropriate Federal banking agency 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, na-

ture of housing stock, housing costs, and other relevant data pertaining to a bank's or savings association's assessment area(s);

(2) Any information about lending, investment, and service opportunities in the bank's or savings association's assessment area(s) maintained by the bank or savings association or obtained from community organizations, state, local, and tribal governments, economic development agencies, or other sources;

(3) The bank's or savings association's product offerings and business strategy as determined from data provided by the bank or savings association;

(4) Institutional capacity and constraints, including the size and financial condition of the bank or savings association, the economic climate (national, regional, and local), safety and soundness limitations, and any other factors that significantly affect the bank's or savings association's ability to provide lending, investments, or services in its assessment area(s);

(5) The bank's or savings association's past performance and the performance of similarly situated lenders;

(6) The bank's or savings association's public file, as described in § 25.43, and any written comments about the bank's or savings association's CRA performance submitted to the bank or savings association or the appropriate Federal banking agency; and

(7) Any other information deemed relevant by the appropriate Federal banking agency.

(c) *Assigned ratings.* The appropriate Federal banking agency assigns to a bank or savings association one of the following four ratings pursuant to § 25.28 and appendix A of this part: “outstanding”; “satisfactory”; “needs to improve”; or “substantial non-compliance” as provided in 12 U.S.C. 2906(b)(2). The rating assigned by the appropriate Federal banking agency reflects the bank's or savings association'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 or savings association.

(d) *Safe and sound operations.* This part and the CRA do not require a bank or savings association to make loans or investments or to provide services that are inconsistent with safe and sound operations. To the contrary, the appropriate Federal banking agency anticipates banks and savings associations can meet the standards of this part with safe and sound loans, investments, and services on which the banks and savings associations expect to make a profit. Banks and savings associations 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 or savings association under this part, the appropriate Federal banking agency considers, as a factor, low-cost education loans originated by the bank or savings association 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 or savings association 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 or savings association under this part, the appropriate Federal banking agency considers as a factor capital investment, loan participation, and other ventures undertaken by the bank or savings association 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 or savings association's assessment area(s) or the broader statewide or regional area(s) that includes the bank's or savings association's assessment area(s).

§ 25.22 Lending test.

(a) *Scope of test.* (1) The lending test evaluates a bank's or savings association's record of helping to meet the credit needs of its assessment area(s) through its lending activities by considering a bank's or savings association's home mortgage, small business, small farm, and community development lending. If consumer lending constitutes a substantial majority of a bank's or savings association's business, the appropriate Federal banking agency will evaluate the bank's or savings association'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 or savings association's option, the

appropriate Federal banking agency will evaluate one or more categories of consumer lending, if the bank or savings association has collected and maintained, as required in § 25.42(c)(1), the data for each category that the bank or savings association elects to have the appropriate Federal banking agency evaluate.

(2) The appropriate Federal banking agency considers originations and purchases of loans. The appropriate Federal banking agency will also consider any other loan data the bank or savings association may choose to provide, including data on loans outstanding, commitments and letters of credit.

(3) A bank or savings association may ask the appropriate Federal banking agency to consider loans originated or purchased by consortia in which the bank or savings association participates or by third parties in which the bank or savings association has invested only if the loans meet the definition of community development loans and only in accordance with paragraph (d) of this section. The appropriate Federal banking agency will not consider these loans under any criterion of the lending test except the community development lending criterion.

(b) *Performance criteria.* The appropriate Federal banking agency evaluates a bank's or savings association's lending performance pursuant to the following criteria:

(1) *Lending activity.* The number and amount of the bank's or savings association's home mortgage, small business, small farm, and consumer loans, if applicable, in the bank's or savings association's assessment area(s);

(2) *Geographic distribution.* The geographic distribution of the bank's or savings association'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 or savings association's lending in the bank's or savings association's assessment area(s);

(ii) The dispersion of lending in the bank's or savings association's assessment area(s); and

(iii) The number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the bank's or savings association's assessment area(s);

(3) *Borrower characteristics.* The distribution, particularly in the bank's or savings association's assessment area(s), of the bank's or savings association'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 or savings association'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 or savings association'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 or savings association's option, the appropriate Federal banking agency will consider loans by an affiliate of the bank or savings association, if the bank or savings association provides data on the affiliate's loans pursuant to § 25.42.

(2) The appropriate Federal banking agency 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 or savings association elects to have the appropriate Federal banking agency consider loans within a particular lending category made by one or more of the bank's or savings association's affiliates in a particular assessment area, the bank or savings association shall elect to have the appropriate Federal banking agency 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 or savings association's affiliates.

(3) The appropriate Federal banking agency does not consider affiliate lending in assessing a bank's or savings association'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 or savings association participates or by a third party in which the bank or savings association has invested:

(1) Will be considered, at the bank's or savings association's option, if the bank or savings association reports the data pertaining to these loans under § 25.42(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 appropriate Federal banking agency rates a bank's or savings association's lending performance as provided in appendix A of this part.

§ 25.23 Investment test.

(a) *Scope of test.* The investment test evaluates a bank's or savings association'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 or savings association'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 or savings association's option, the appropriate Federal banking agency will consider, in its assessment of a bank's or savings association's investment performance, a qualified investment made by an affiliate of the bank or savings association, 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 or savings association 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 appropriate Federal banking agency evaluates the investment performance of a bank or savings association 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 appropriate Federal banking agency rates a bank's or savings association's investment performance as provided in appendix A of this part.

§ 25.24 Service test.

(a) *Scope of test.* The service test evaluates a bank's or savings association'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 or savings association'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 or savings association's assessment area(s) or a broader statewide or regional area that includes the bank's or savings association's assessment area(s).

(c) *Affiliate service.* At a bank's or savings association's option, the appropriate Federal banking agency will consider, in its assessment of a bank's or savings association's service performance, a community development service provided by an affiliate of the bank or savings association, if the community development service is not claimed by any other institution.

(d) *Performance criteria—retail banking services.* The appropriate Federal banking agency evaluates the availability and effectiveness of a bank's or savings association's systems for delivering retail banking services, pursuant to the following criteria:

(1) The current distribution of the bank's or savings association's branches among low-, moderate-, middle-, and upper-income geographies;

(2) In the context of its current distribution of the bank's or savings association's branches, the bank's or savings association'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 or savings association, 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 geographies and the degree to which the services are tailored to meet the needs of those geographies.

(e) *Performance criteria—community development services.* The appropriate Federal banking agency evaluates community development services pursuant to the following criteria:

(1) The extent to which the bank or savings association provides community development services; and

(2) The innovativeness and responsiveness of community development services.

(f) *Service performance rating.* The appropriate Federal banking agency rates a bank's or savings association's service performance as provided in appendix A of this part.

§ 25.25 Community development test for wholesale or limited purpose banks and savings associations.

(a) *Scope of test.* The appropriate Federal banking agency assesses a wholesale or limited purpose bank's or savings association'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 or savings association.* In order to receive a designation as a wholesale or limited purpose bank or savings association, a bank or savings association shall file a request, in writing, with the appropriate Federal banking agency, at least three months prior to the proposed effective date of the designation. If the appropriate Federal banking agency approves the designation, it remains in effect until the bank or savings association requests revocation of the designation or until one year after the appropriate Federal banking agency notifies the bank or savings association that it has revoked the designation on its own initiative.

(c) *Performance criteria.* The appropriate Federal banking agency evaluates the community development performance of a wholesale or limited purpose bank or savings association 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 or savings association, 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 or savings association's responsiveness to credit and community development needs.

(d) *Indirect activities.* At a bank's or savings association's option, the appropriate Federal banking agency will consider in its community development performance assessment:

(1) Qualified investments or community development services provided by an affiliate of the bank or savings association, 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 § 25.22(c) and (d).

(e) *Benefit to assessment area(s)—(1) Benefit inside assessment area(s).* The appropriate Federal banking agency considers all qualified investments, community development loans, and community development services

that benefit areas within the bank's or savings association's assessment area(s) or a broader statewide or regional area that includes the bank's or savings association's assessment area(s).

(2) *Benefit outside assessment area(s).* The appropriate Federal banking agency considers the qualified investments, community development loans, and community development services that benefit areas outside the bank's or savings association's assessment area(s), if the bank or savings association has adequately addressed the needs of its assessment area(s).

(f) *Community development performance rating.* The appropriate Federal banking agency rates a bank's or savings association's community development performance as provided in appendix A of this part.

§ 25.26 Small bank and savings association performance standards.

(a) *Performance criteria*—(1) *Small banks and savings associations that are not intermediate small banks or savings associations.* The appropriate Federal banking agency evaluates the record of a small bank or savings association that is not, or that was not during the prior calendar year, an intermediate small bank or savings association, 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 and savings associations.* The appropriate Federal banking agency evaluates the record of a small bank or savings association that is, or that was during the prior calendar year, an intermediate small bank or savings association, 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 or savings association's lending performance is evaluated pursuant to the following criteria:

(1) The bank's or savings association'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 or savings association's assessment area(s);

(3) The bank's or savings association'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 or savings association's loans; and

(5) The bank's or savings association's record of taking action, if warranted, in response to written complaints about its per-

formance in helping to meet credit needs in its assessment area(s).

(c) *Community development test.* An intermediate small bank's or savings association'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 or savings association provides community development services; and

(4) The bank's or savings association's responsiveness through such activities to community development lending, investment, and services needs.

(d) *Small bank or savings association performance rating.* The appropriate Federal banking agency rates the performance of a bank or savings association evaluated under this section as provided in appendix A of this part.

§ 25.27 Strategic plan.

(a) *Alternative election.* The appropriate Federal banking agency will assess a bank's or savings association's record of helping to meet the credit needs of its assessment area(s) under a strategic plan if:

(1) The bank or savings association has submitted the plan to the appropriate Federal banking agency as provided for in this section;

(2) The appropriate Federal banking agency has approved the plan;

(3) The plan is in effect; and

(4) The bank or savings association has been operating under an approved plan for at least one year.

(b) *Data reporting.* The appropriate Federal banking agency's approval of a plan does not affect the bank's or savings association's obligation, if any, to report data as required by § 25.42.

(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 appropriate Federal banking agency will evaluate the bank's or savings association's performance.

(2) *Multiple assessment areas.* A bank or savings association 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 appropriate

Federal banking agency for approval, a bank or savings association 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 or savings association 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 or savings association 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 or savings association shall submit its plan to the appropriate Federal banking agency at least three months prior to the proposed effective date of the plan. The bank or savings association 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 or savings association 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 or savings association shall address in its plan all three performance categories and, unless the bank or savings association has been designated as a wholesale or limited purpose bank or savings association, 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 or savings association's capacity and constraints, product offerings, and business strategy.

(2) *Confidential information.* A bank or savings association may submit additional information to the appropriate Federal banking agency on a confidential basis, but the goals stated in the plan must be sufficiently specific to enable the public and the appropriate Federal banking agency to judge the merits of the plan.

(3) *Satisfactory and outstanding goals.* A bank or savings association shall specify in its plan measurable goals that constitute "satisfactory" performance. A plan may

specify measurable goals that constitute "outstanding" performance. If a bank or savings association submits, and the appropriate Federal banking agency approves, both "satisfactory" and "outstanding" performance goals, the appropriate Federal banking agency will consider the bank or savings association eligible for an "outstanding" performance rating.

(4) *Election if satisfactory goals not substantially met.* A bank or savings association may elect in its plan that, if the bank or savings association fails to meet substantially its plan goals for a satisfactory rating, the appropriate Federal banking agency will evaluate the bank's or savings association's performance under the lending, investment, and service tests, the community development test, or the small bank or savings association performance standards, as appropriate.

(g) *Plan approval*—(1) *Timing.* The appropriate Federal banking agency will act upon a plan within 60 calendar days after the appropriate Federal banking agency receives the complete plan and other material required under paragraph (e) of this section. If the appropriate Federal banking agency fails to act within this time period, the plan shall be deemed approved unless the appropriate Federal banking agency extends the review period for good cause.

(2) *Public participation.* In evaluating the plan's goals, the appropriate Federal banking agency considers the public's involvement in formulating the plan, written public comment on the plan, and any response by the bank or savings association to public comment on the plan.

(3) *Criteria for evaluating plan.* The appropriate Federal banking agency 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 or savings association's qualified investments; and

(iii) The availability and effectiveness of the bank's or savings association's systems for delivering retail banking services and the extent and innovativeness of the bank's or savings association's community development services.

(h) *Plan amendment.* During the term of a plan, a bank or savings association may request the appropriate Federal banking agency to approve an amendment to the plan on grounds that there has been a material

change in circumstances. The bank or savings association 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 appropriate Federal banking agency approves the goals and assesses performance under a plan as provided for in appendix A of this part.

§ 25.28 Assigned ratings.

(a) *Ratings in general.* Subject to paragraphs (b) and (c) of this section, the appropriate Federal banking agency assigns to a bank or savings association a rating of “outstanding,” “satisfactory,” “needs to improve,” or “substantial noncompliance” based on the bank’s or savings association’s performance under the lending, investment and service tests, the community development test, the small bank or savings association performance standards, or an approved strategic plan, as applicable.

(b) *Lending, investment, and service tests.* The appropriate Federal banking agency assigns a rating for a bank or savings association assessed under the lending, investment, and service tests in accordance with the following principles:

(1) A bank or savings association that receives an “outstanding” rating on the lending test receives an assigned rating of at least “satisfactory”;

(2) A bank or savings association 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 or savings association 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 appropriate Federal banking agency’s evaluation of a bank’s or savings association’s CRA performance is adversely affected by evidence of discriminatory or other illegal credit practices in any geography by the bank or savings association or in any assessment area by any affiliate whose loans have been considered as part of the bank’s or savings association’s lending performance. In connection with any type of lending activity described in § 25.22(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 or savings association’s assigned rating, the appropriate Federal banking agency considers the nature, extent, and strength of the evidence of the practices; the policies and procedures that the bank or savings association (or affiliate, as applicable) has in place to prevent the practices; any corrective action that the bank or savings association (or affiliate, as applicable) has taken or has committed to take, including voluntary corrective action resulting from self-assessment; and any other relevant information.

§ 25.29 Effect of CRA performance on applications.

(a) *CRA performance.* Among other factors, the appropriate Federal banking agency takes into account the record of performance under the CRA of each applicant bank or savings association, and for applications under 10(e) of the Home Owners’ Loan Act (12 U.S.C. 1467a(e)), of each proposed subsidiary savings association, in considering an application for:

(1) The establishment of:

(i) A domestic branch for insured national banks; or

(ii) A domestic branch or other facility that would be authorized to take deposits for savings associations;

(2) The relocation of the main office or a branch;

(3) The merger or consolidation with or the acquisition of assets or assumption of liabilities of an insured depository institution requiring approval under the Bank Merger Act (12 U.S.C. 1828(c)); and

(4) The conversion of an insured depository institution to a national bank or Federal savings association charter; and

(5) Acquisitions subject to section 10(e) of the Home Owners’ Loan Act (12 U.S.C. 1467a(e)).

(b) *Charter application.* (1) An applicant (other than an insured depository institution) for a national bank charter shall submit with its application a description of how it will meet its CRA objectives. The OCC takes the description into account in considering the application and may deny or condition approval on that basis.

(2) An applicant for a Federal savings association charter shall submit with its application a description of how it will meet its CRA objectives. The appropriate Federal banking agency takes the description into account in considering the application and may deny or condition approval on that basis.

(c) *Interested parties.* The appropriate Federal banking agency takes into account any views expressed by interested parties that are submitted in accordance with the applicable comment procedures in considering CRA performance in an application listed in paragraphs (a) and (b) of this section.

(d) *Denial or conditional approval of application.* A bank's 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.

(e) *Insured depository institution.* For purposes of this section, the term "insured depository institution" has the meaning given to that term in 12 U.S.C. 1813.

Subpart C—Records, Reporting, and Disclosure Requirements

§ 25.41 Assessment area delineation.

(a) *In general.* A bank or savings association shall delineate one or more assessment areas within which the appropriate Federal banking agency evaluates the bank's or savings association's record of helping to meet the credit needs of its community. The appropriate Federal banking agency does not evaluate the bank's or savings association's delineation of its assessment area(s) as a separate performance criterion, but the appropriate Federal banking agency reviews the delineation for compliance with the requirements of this section.

(b) *Geographic area(s) for wholesale or limited purpose banks or savings associations.* The assessment area(s) for a wholesale or limited purpose bank or savings association 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 or savings association has its main office, branches, and deposit-taking ATMs.

(c) *Geographic area(s) for other banks and savings association.* The assessment area(s) for a bank or savings association other than a wholesale or limited purpose bank or savings association 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 or savings association has its main office, its branches, and its deposit-taking ATMs, as well as the surrounding geographies in which the bank or savings association 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 or savings association chooses, such as those consumer loans on which the bank or savings association elects to have its performance assessed).

(d) *Adjustments to geographic area(s).* A bank or savings association 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 or savings association'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 or savings association'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 or savings association serves a geographic area that extends substantially beyond a state boundary, the bank or savings association shall delineate separate assessment areas for the areas in each state. If a bank or savings association serves a geographic area that extends substantially beyond an MSA boundary, the bank or savings association shall delineate separate assessment areas for the areas inside and outside the MSA.

(f) *Banks and savings association serving military personnel.* Notwithstanding the requirements of this section, a bank or savings association 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 appropriate Federal banking agency uses the assessment area(s) delineated by a bank or savings association in its evaluation of the bank's or savings association's CRA performance unless the appropriate Federal banking agency determines that the assessment area(s) do not comply with the requirements of this section.

§ 25.42 Data collection, reporting, and disclosure.

(a) *Loan information required to be collected and maintained.* A bank or savings association, except a small bank or savings association, shall collect, and maintain in machine readable form (as prescribed by the appropriate Federal banking agency) 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 or savings association:

(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 or savings association, except a small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year, shall report annually by March 1 to the appropriate Federal banking agency in machine readable form (as prescribed by the appropriate Federal banking agency) the following data for the prior calendar year:

(1) *Small business and small farm loan data.* For each geography in which the bank or savings association 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 or savings association 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 or savings association is subject to reporting under part 1003 of this title, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank or savings association has a home or branch office (or outside any MSA) in accordance with the requirements of part 1003 of this title.

(c) *Optional data collection and maintenance—*(1) *Consumer loans.* A bank or savings association may collect and maintain in machine readable form (as prescribed by the appropriate Federal banking agency) data for consumer loans originated or purchased by the bank or savings association for consideration under the lending test. A bank or savings association 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 or savings association maintains data for loans in a certain category, it shall maintain data for all loans originated or purchased within that category. The bank or savings association 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 or savings association considered in making its credit decision.

(2) *Other loan data.* At its option, a bank or savings association may provide other information concerning its lending performance, including additional loan distribution data.

(d) *Data on affiliate lending.* A bank or savings association that elects to have the appropriate Federal banking agency 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 or savings association 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 or savings association. For home mortgage loans, the bank or savings association shall also be prepared to identify the home mortgage loans reported under part 1003 of this title by the affiliate.

(e) *Data on lending by a consortium or a third party.* A bank or savings association that elects to have the appropriate Federal banking agency 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 or savings association would have reported under paragraph (b)(2) of this section had the loans been originated or purchased by the bank or savings association.

(f) *Small banks and savings associations electing evaluation under the lending, investment, and service tests.* A bank or savings association that qualifies for evaluation under the small bank or savings association performance standards but elects evaluation under the lending, investment, and service tests shall collect, maintain, and report the data required for other banks or savings association pursuant to paragraphs (a) and (b) of this section.

(g) *Assessment area data.* A bank or savings association, except a small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year, shall collect and report to the appropriate Federal banking agency by March 1 of each year a list for each assessment area showing the geographies within the area.

(h) *CRA Disclosure Statement.* The appropriate Federal banking agency prepares annually for each bank or savings association 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 or savings association 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 or savings association 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 or savings association 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 or savings association 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 or savings association and the number and amount of small business and small farm loans located outside the assessment area(s) reported by the bank or savings association; and

(4) The number and amount of community development loans reported as originated or purchased.

(i) *Aggregate disclosure statements.* The OCC, in conjunction with the Board of Governors of the Federal Reserve System and the FDIC, 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 228 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 appropriate Federal banking agency 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 appropriate Federal banking agency makes the aggregate disclosure statements, described in paragraph (i) of this section, and the individual bank or savings association CRA Disclosure Statements, described in paragraph (h) of this section, available to the public at central data depositories. The appropriate Federal banking agency publishes a list of the depositories at which the statements are available.

§ 25.43 Content and availability of public file.

(a) *Information available to the public.* A bank or savings association 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 or savings association's performance in helping to meet community credit needs, and any response to the comments by the bank or savings association, 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 savings association or publication of which would violate specific provisions of law;

(2) A copy of the public section of the bank's or savings association's most recent CRA Performance Evaluation prepared by the appropriate Federal banking agency. The

bank or savings association shall place this copy in the public file within 30 business days after its receipt from the appropriate Federal banking agency;

(3) A list of the bank's or savings association's branches, their street addresses, and geographies;

(4) A list of branches opened or closed by the bank or savings association 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 or savings association's branches and descriptions of material differences in the availability or cost of services at particular branches, if any. At its option, a bank or savings association 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 or savings association, banking by telephone 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 or savings association chooses.

(b) *Additional information available to the public*—(1) *Banks and savings associations other than small banks or savings associations.* A bank or savings association, except a small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year, shall include in its public file the following information pertaining to the bank or savings association and its affiliates, if applicable, for each of the prior two calendar years:

(i) If the bank or savings association 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 or savings association's assessment area(s) and outside the bank's or savings association's assessment area(s); and

(ii) The bank's or savings association's CRA Disclosure Statement. The bank or savings association shall place the statement in the public file within three business days of its receipt from the appropriate Federal banking agency.

(2) *Banks and savings associations required to report Home Mortgage Disclosure Act (HMDA) data.* A bank or savings association 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 or savings association that elected to have the appropriate Federal banking agency 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 or savings association 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 and savings associations.* A small bank or savings association or a bank or savings association that was a small bank or savings association during the prior calendar year shall include in its public file:

(i) The bank's or savings association'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 or savings associations by paragraph (b)(1) of this section, if the bank or savings association has elected to be evaluated under the lending, investment, and service tests.

(4) *Banks and savings associations with strategic plans.* A bank or savings association that has been approved to be assessed under a strategic plan shall include in its public file a copy of that plan. A bank or savings association need not include information submitted to the appropriate Federal banking agency on a confidential basis in conjunction with the plan.

(5) *Banks and savings associations with less than satisfactory ratings.* A bank or savings association 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 or savings association shall update the description quarterly.

(c) *Location of public information.* A bank or savings association 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 or savings association, 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 or savings association'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 or savings association 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 or savings association 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 or savings association shall ensure that the information required by this section is current as of April 1 of each year.

§ 25.44 Public notice by banks and savings associations.

A bank or savings association 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 or savings association having more than one assessment area shall include the bracketed material in the notice for branch offices. Only an insured national bank that is an affiliate of a holding company shall include the next to the last sentence of the notices. An insured national 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. Only a savings association that is an affiliate of a holding company shall include the last two sentences of the notices.

§ 25.45 Publication of planned examination schedule.

The appropriate Federal banking agency publishes at least 30 days in advance of the beginning of each calendar quarter a list of banks and savings associations scheduled for CRA examinations in that quarter.

Subpart D—Transition Provisions

§ 25.51 Consideration of Bank Activities.

(a) In assessing a bank's CRA performance, the appropriate Federal banking agency will consider any loan, investment, or service that was eligible for CRA consideration at the time the bank conducted the activity.

(b) Notwithstanding paragraph (a), in assessing a bank's CRA performance, the appropriate Federal banking agency will consider any loan or investment that was eligible for CRA consideration at the time the bank entered into a legally binding commitment to make the loan or investment.

§ 25.52 Strategic Plan Retention.

A bank or savings association strategic plan approved by the appropriate Federal banking agency and in effect as of December 31, 2021, remains in effect, except that provisions of the plan that are not consistent with

this part in effect as of January 1, 2022, are void, unless amended pursuant to § 25.27.

Subpart E—Prohibition Against Use of Interstate Branches Primarily for Deposit Production

§ 25.61 Purpose and scope.

(a) *Purpose.* The purpose of this subpart is to implement section 109 (12 U.S.C. 1835a) of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act).

(b) *Scope.* (1) This subpart applies to any national bank that has operated a covered interstate branch for a period of at least one year, and any foreign bank that has operated a covered interstate branch that is a Federal branch for a period of at least one year.

(2) This subpart describes the requirements imposed under 12 U.S.C. 1835a, which requires the appropriate Federal banking agencies (the OCC, the Board of Governors of the Federal Reserve System, and the FDIC) to prescribe uniform rules that prohibit a bank from using any authority to engage in interstate branching pursuant to the Interstate Act, or any amendment made by the Interstate Act to any other provision of law, primarily for the purpose of deposit production.

§ 25.62 Definitions.

For purposes of this subpart, the following definitions apply:

(a) *Bank* means, unless the context indicates otherwise:

(1) A national bank; and

(2) A foreign bank as that term is defined in 12 U.S.C. 3101(7) and 12 CFR 28.11(i).

(b) *Covered interstate branch* means:

(1) Any branch of a national bank, and any Federal branch of a foreign bank, that:

(i) Is established or acquired outside the bank's home State pursuant to the interstate branching authority granted by the Interstate Act or by any amendment made by the Interstate Act to any other provision of law; or

(ii) Could not have been established or acquired outside of the bank's home State but for the establishment or acquisition of a branch described in paragraph (b)(1)(i) of this section; and

(2) Any bank or branch of a bank controlled by an out-of-State bank holding company.

(c) *Federal branch* means Federal branch as that term is defined in 12 U.S.C. 3101(6) and 12 CFR 28.11(h).

(d) *Home State* means:

(1) With respect to a State bank, the State that chartered the bank;

(2) With respect to a national bank, the State in which the main office of the bank is located;

(3) With respect to a bank holding company, the State in which the total deposits

of all banking subsidiaries of such company are the largest on the later of:

- (i) July 1, 1966; or
- (ii) The date on which the company becomes a bank holding company under the Bank Holding Company Act;

(4) With respect to a foreign bank:

- (i) For purposes of determining whether a U.S. branch of a foreign bank is a covered interstate branch, the home State of the foreign bank as determined in accordance with 12 U.S.C. 3103(c) and 12 CFR 28.11(n); and
- (ii) For purposes of determining whether a branch of a U.S. bank controlled by a foreign bank is a covered interstate branch, the State in which the total deposits of all banking subsidiaries of such foreign bank are the largest on the later of:

(A) July 1, 1966; or

- (B) The date on which the foreign bank becomes a bank holding company under the Bank Holding Company Act.

(e) *Host State* means a State in which a covered interstate branch is established or acquired.

(f) *Host state loan-to-deposit ratio* generally means, with respect to a particular host state, the ratio of total loans in the host state relative to total deposits from the host state for all banks (including institutions covered under the definition of “bank” in 12 U.S.C. 1813(a)(1)) that have that state as their home state, as determined and updated periodically by the appropriate Federal banking agencies and made available to the public.

(g) *Out-of-State bank holding company* means, with respect to any State, a bank holding company whose home State is another State.

(h) *State* means state as that term is defined in 12 U.S.C. 1813(a)(3).

(i) *Statewide loan-to-deposit ratio* means, with respect to a bank, the ratio of the bank’s loans to its deposits in a state in which the bank has one or more covered interstate branches, as determined by the OCC.

§ 25.63 Loan-to-deposit ratio screen.

(a) *Application of screen.* Beginning no earlier than one year after a covered interstate branch is acquired or established, the OCC will consider whether the bank’s statewide loan-to-deposit ratio is less than 50 percent of the relevant host State loan-to-deposit ratio.

(b) *Results of screen.* (1) If the OCC determines that the bank’s statewide loan-to-deposit ratio is 50 percent or more of the host state loan-to-deposit ratio, no further consideration under this subpart is required.

(2) If the OCC determines that the bank’s statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, or if reasonably available data are insufficient to calculate the bank’s statewide

loan-to-deposit ratio, the OCC will make a credit needs determination for the bank as provided in § 25.64.

§ 25.64 Credit needs determination.

(a) *In general.* The OCC will review the loan portfolio of the bank and determine whether the bank is reasonably helping to meet the credit needs of the communities in the host state that are served by the bank.

(b) *Guidelines.* The OCC will use the following considerations as guidelines when making the determination pursuant to paragraph (a) of this section:

(1) Whether covered interstate branches were formerly part of a failed or failing depository institution;

(2) Whether covered interstate branches were acquired under circumstances where there was a low loan-to-deposit ratio because of the nature of the acquired institution’s business or loan portfolio;

(3) Whether covered interstate branches have a high concentration of commercial or credit card lending, trust services, or other specialized activities, including the extent to which the covered interstate branches accept deposits in the host state;

(4) The CRA ratings received by the bank, if any;

(5) Economic conditions, including the level of loan demand, within the communities served by the covered interstate branches;

(6) The safe and sound operation and condition of the bank; and

(7) The OCC’s CRA regulations (subparts A through D of this part) and interpretations of those regulations.

§ 25.65 Sanctions.

(a) *In general.* If the OCC determines that a bank is not reasonably helping to meet the credit needs of the communities served by the bank in the host state, and that the bank’s statewide loan-to-deposit ratio is less than 50 percent of the host state loan-to-deposit ratio, the OCC:

(1) May order that a bank’s covered interstate branch or branches be closed unless the bank provides reasonable assurances to the satisfaction of the OCC, after an opportunity for public comment, that the bank has an acceptable plan under which the bank will reasonably help to meet the credit needs of the communities served by the bank in the host state; and

(2) Will not permit the bank to open a new branch in the host state that would be considered to be a covered interstate branch unless the bank provides reasonable assurances to the satisfaction of the OCC, after an opportunity for public comment, that the bank will reasonably help to meet the credit needs of the community that the new branch will serve.

(b) *Notice prior to closure of a covered interstate branch.* Before exercising the OCC's authority to order the bank to close a covered interstate branch, the OCC will issue to the bank a notice of the OCC's intent to order the closure and will schedule a hearing within 60 days of issuing the notice.

(c) *Hearing.* The OCC will conduct a hearing scheduled under paragraph (b) of this section in accordance with the provisions of 12 U.S.C. 1818(h) and 12 CFR part 19.

APPENDIX A TO PART 25—RATINGS

(a) *Ratings in general.* (1) In assigning a rating, the appropriate Federal banking agency evaluates a bank's or savings association's performance under the applicable performance criteria in this part, in accordance with §§ 25.21 and 25.28. 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 or savings association'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 or savings association's overall performance, however, must be consistent with safe and sound banking practices and generally with the appropriate rating profile as follows.

(b) *Banks and savings associations evaluated under the lending, investment, and service tests—(1) Lending performance rating.* The appropriate Federal banking agency assigns each bank's or savings association's lending performance one of the five following ratings.

(i) *Outstanding.* The appropriate Federal banking agency rates a bank's or savings association'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 or savings association;

(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 appropriate Federal banking agency rates a bank's or savings association'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 (including farms) of different sizes, given the product lines offered by the bank or savings association;

(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 appropriate Federal banking agency rates a bank's or savings association'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 or savings association;

(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 appropriate Federal banking agency rates a bank's or savings association'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 or savings association;

(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 appropriate Federal banking agency rates a bank's or savings association'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 or savings association;

(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 appropriate Federal banking agency assigns each bank's or savings association's investment performance one of the five following ratings.

(i) *Outstanding.* The appropriate Federal banking agency rates a bank's or savings association'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 appropriate Federal banking agency rates a bank's or savings association'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 appropriate Federal banking agency rates a bank's or savings association'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 appropriate Federal banking agency rates a bank's or savings association'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 appropriate Federal banking agency rates a bank's or savings association'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 appropriate Federal banking agency assigns each bank's or savings association's service performance one of the five following ratings.

(i) *Outstanding.* The appropriate Federal banking agency rates a bank's or savings association's service performance "outstanding" if, in general, the bank or savings association 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; and

(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 appropriate Federal banking agency rates a bank's or savings association's service performance "high satisfactory" if, in general, the bank or savings association 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; and

(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 appropriate Federal banking agency rates a bank's or savings association's service performance "low satisfactory" if, in general, the bank or savings association 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; and

(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 appropriate Federal banking agency rates a bank's or savings association's service performance "needs to improve" if, in general, the bank or savings association 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; and

(B) To the extent changes have been made, its record of opening and closing branches has adversely affected the accessibility of its delivery systems, particularly in low- or moderate-income geographies or to low- or moderate-income individuals; and

(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 appropriate Federal banking agency rates a bank's or savings association's service performance as being in "substantial noncompliance" if, in general, the bank or savings association 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; and

(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; and

(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 appropriate Federal banking agency assigns each wholesale or limited purpose bank's or savings association's community development performance one of the four following ratings.

(1) *Outstanding.* The appropriate Federal banking agency rates a wholesale or limited purpose bank's or savings association'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 appropriate Federal banking agency rates a wholesale or limited purpose bank's or savings association'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 appropriate Federal banking agency rates a wholesale or limited purpose bank's or savings association'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 appropriate Federal banking agency rates a wholesale or limited purpose bank's or savings association'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 and savings associations evaluated under the small bank and savings association performance standards—(1) Lending test ratings.* (i) *Eligibility for a satisfactory lending test rating.* The appropriate Federal banking agency rates a small bank's or savings association's lending performance "satisfactory" if, in general, the bank or savings association demonstrates:

(A) A reasonable loan-to-deposit ratio (considering seasonal variations) given the bank's or savings association'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 or savings association's assessment area(s);

(D) A record of taking appropriate action, when warranted, in response to written complaints, if any, about the bank's or savings association'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 or savings association's assessment area(s).

(ii) *Eligibility for an "outstanding" lending test rating.* A small bank or savings association 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 noncompliance ratings.* A small bank or savings association 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 and savings associations*—(i) *Eligibility for a satisfactory community development test rating.* The appropriate Federal banking agency rates an intermediate small bank's or savings association's community development performance "satisfactory" if the bank or savings association 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 or savings association'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 or savings association's assessment area(s).

(ii) *Eligibility for an outstanding community development test rating.* The appropriate Federal banking agency rates an intermediate small bank's or savings association's community development performance "outstanding" if the bank or savings association 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 or savings association's capacity and the need and availability of such opportunities for community development in the bank's or savings association's assessment area(s).

(iii) *Needs to improve or substantial non-compliance ratings.* An intermediate small bank or savings association may also receive a community development test rating of "needs to improve" or "substantial non-compliance" 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 or savings association 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 or savings association 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 or savings association that is not an intermediate small bank or savings association 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 or savings association's performance is "outstanding," the ap-

propriate Federal banking agency considers the extent to which the bank or savings association 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 or savings association may also receive a rating of "needs to improve" or "substantial non-compliance" 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 appropriate Federal banking agency approves as "satisfactory" measurable goals that adequately help to meet the credit needs of the bank's or savings association'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 appropriate Federal banking agency will approve those goals as "outstanding."

(3) *Rating.* The appropriate Federal banking agency assesses the performance of a bank or savings association operating under an approved plan to determine if the bank or savings association has met its plan goals:

(i) If the bank or savings association substantially achieves its plan goals for a satisfactory rating, the appropriate Federal banking agency will rate the bank's or savings association's performance under the plan as "satisfactory."

(ii) If the bank or savings association exceeds its plan goals for a satisfactory rating and substantially achieves its plan goals for an outstanding rating, the appropriate Federal banking agency will rate the bank's or savings association's performance under the plan as "outstanding."

(iii) If the bank or savings association fails to meet substantially its plan goals for a satisfactory rating, the appropriate Federal banking agency will rate the bank or savings association as either "needs to improve" or "substantial noncompliance," depending on the extent to which it falls short of its plan goals, unless the bank or savings association elected in its plan to be rated otherwise, as provided in §25.27(f)(4).

APPENDIX B TO PART 25—CRA NOTICE

(a) *Notice for main offices and, if an interstate bank and savings association, one branch office in each state.*

COMMUNITY REINVESTMENT ACT NOTICE

Under the Federal Community Reinvestment Act (CRA), the [Office of the Comptroller of the Currency (OCC) or Federal Deposit Insurance Corporation (FDIC), as appropriate] evaluates our record of helping to meet the credit needs of this community consistent with safe and sound operations. The [OCC or FDIC, as appropriate] 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 [OCC or FDIC, as appropriate]; 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 [OCC or FDIC, as appropriate] publishes a nationwide list of the banks and savings associations that are scheduled for CRA examination in that quarter. This list is available from the [OCC or FDIC, as appropriate], at [address]. You may send written comments about our performance in helping to meet community credit needs to [name and address of official at bank or savings association] and to the [OCC or FDIC, as appropriate], at [address]. Your letter, together with any response by us, will be considered by the [OCC or FDIC, as appropriate] in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the [OCC or FDIC, as appropriate]. You may also request from the [OCC or FDIC, as appropriate] an announcement of our applications covered by the CRA filed with the [OCC or FDIC, as appropriate]. We are an affiliate of [name of holding company], a [bank holding company or savings and loan holding company, as appropriate]. You may request from the [title of responsible official], Federal Reserve Bank of [____] [address] an announcement of applications covered by the CRA filed by [bank holding companies or savings and loan holding companies, as appropriate].

(b) *Notice for branch offices.*

COMMUNITY REINVESTMENT ACT NOTICE

Under the Federal Community Reinvestment Act (CRA), the [Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC), as appropriate] evaluates our record of helping to meet the credit needs of this community consistent

with safe and sound operations. The [OCC or FDIC, as appropriate] 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 [OCC or FDIC, as appropriate], 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 [OCC or FDIC, as appropriate] 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 or savings association, as appropriate] is available at [name of office located in state], located at [address].]

At least 30 days before the beginning of each quarter, the [OCC or FDIC, as appropriate] publishes a nationwide list of the banks and savings associations that are scheduled for CRA examination in that quarter. This list is available from the [OCC or FDIC, as appropriate] at [address]. You may send written comments about our performance in helping to meet community credit needs to [name and address of official at bank or savings association, as appropriate] and to the [OCC or FDIC, as appropriate] at [address]. Your letter, together with any response by us, will be considered by the [OCC or FDIC, as appropriate] in evaluating our CRA performance and may be made public.

You may ask to look at any comments received by the [OCC or FDIC, as appropriate]. You may also request from the [OCC or FDIC, as appropriate] an announcement of our applications covered by the CRA filed with the [OCC or FDIC, as appropriate]. We are an affiliate of [name of holding company], a [bank holding company or savings and loan holding company, as appropriate]. You may request from the [title of responsible official], Federal Reserve Bank of [____], [address], an announcement of applications covered by the CRA filed by [bank

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holding companies or savings and loan holding companies, as appropriate].

[89 FR 7172, Feb. 1, 2024]

PART 26—MANAGEMENT OFFICIAL INTERLOCKS

Sec.

26.1 Authority, purpose, and scope.

26.2 Definitions.

26.3 Prohibitions.

26.4 Interlocking relationships permitted by statute.

26.5 Small market share exemption.

26.6 General exemption.

26.7 Change in circumstances.

26.8 Enforcement.

AUTHORITY: 12 U.S.C. 1, 93a, 1462a, 1463, 1464, 3201–3208, 5412(b)(2)(B).

SOURCE: 61 FR 40300, Aug. 2, 1996, unless otherwise noted.

§ 26.1 Authority, purpose, and scope.

(a) *Authority.* This part is issued under the provisions of the Depository Institution Management Interlocks Act (Interlocks Act) (12 U.S.C. 3201 *et seq.*), as amended, and the OCC's general rulemaking authority for national banks in 12 U.S.C. 93a and Federal savings associations in 12 U.S.C. 1462a and 5412(b)(2)(B).

(b) *Purpose.* The purpose of the Interlocks Act and this part is to foster competition by generally prohibiting a management official from serving two nonaffiliated depository organizations in situations where the management interlock likely would have an anti-competitive effect.

(c) *Scope.* This part applies to management officials of national banks, Federal savings associations, and their affiliates.

[73 FR 22251, Apr. 24, 2008, as amended at 79 FR 28399, May 16, 2014]

§ 26.2 Definitions.

For purposes of this part, the following definitions apply:

(a) *Affiliate.* (1) The term *affiliate* has the meaning given in section 202 of the Interlocks Act (12 U.S.C. 3201). For purposes of that section 202, shares held by an individual include shares held by members of his or her immediate family. “Immediate family” means spouse, mother, father, child, grandchild, sister, brother, or any of their spouses,

whether or not any of their shares are held in trust.

(2) For purposes of section 202(3)(B) of the Interlocks Act (12 U.S.C. 3201(3)(B)), an affiliate relationship involving a national bank or Federal savings association based on common ownership does not exist if the OCC determines, after giving the affected persons the opportunity to respond, that the asserted affiliation was established in order to avoid the prohibitions of the Interlocks Act and does not represent a true commonality of interest between the depository organizations. In making this determination, the OCC considers, among other things, whether a person, including members of his or her immediate family, whose shares are necessary to constitute the group, owns a nominal percentage of the shares of one of the organizations and the percentage is substantially disproportionate to that person's ownership of shares in the other organization.

(b) *Area median income* means:

(1) The median family income for the metropolitan statistical area (MSA), if a depository organization is located in an MSA; or

(2) The statewide nonmetropolitan median family income, if a depository organization is located outside an MSA.

(c) *Community* means a city, town, or village, and contiguous or adjacent cities, towns, or villages.

(d) *Contiguous or adjacent cities, towns, or villages* means cities, towns, or villages whose borders touch each other or whose borders are within 10 road miles of each other at their closest points. The property line of an office located in an unincorporated city, town, or village is the boundary line of that city, town, or village for the purpose of this definition.

(e) *Depository holding company* means a bank holding company or a savings and loan holding company (as more fully defined in section 202 of the Interlocks Act (12 U.S.C. 3201)) having its principal office located in the United States.

(f) *Depository institution* means a commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a