

**Community Reinvestment Act Rule CDFI/MDFI Key Takeaways**  
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**for the National Bankers Association**  
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**Definitions**

Community Development

Like the current Community Reinvestment Act (CRA) rule, the draft final rule would provide that, in evaluating a bank's CRA performance under the applicable performance tests, the agencies would consider a bank's community development loans, investments, and services. The draft final rule would provide banks with additional clarity regarding the loans, investments, and services that the agencies have determined would support community development and would codify interpretations that the agencies have currently provided through interagency guidance, such as the Interagency Questions and Answers. Specifically, the draft final rule would define the following eleven community development categories:

- Affordable housing, which would have five components: (1) rental housing in conjunction with a government affordable housing plan, program, initiative, tax credit, or subsidy; (2) multifamily rental housing with affordable rents; (3) one-to-four family rental housing with affordable rents in a nonmetropolitan area; (4) affordable owner-occupied housing for LMI individuals; and (5) mortgage-backed securities.
- Economic development activities, which include loans, investments, and services undertaken in conjunction or in syndication with government programs; loans, investments, and services provided to intermediaries; and other forms of assistance to small businesses and small farms. Unlike the proposal, the draft final rule would expand this category of activities to include direct loans to small businesses and small farms in conjunction or in syndication with government programs that meet a size and purpose test.
- Community supportive services, which would include activities that assist, benefit, or contribute to the health, stability, or well-being of LMI individuals, and would replace the current rule's "community services targeted to low- or moderate-income individuals" category.
- Six categories of place-based activities, each of which would adopt a focus on targeted geographic areas and would include common place-based eligibility criteria that must be met. These six categories replace the revitalization and stabilization activities component of the current rule. The six place-based categories would be: revitalization or stabilization activities; essential community facilities; essential community infrastructure; recovery activities that promote the recovery of a designated disaster area; disaster preparedness and weather

resiliency activities; and qualifying activities in Native Land Areas, as that term is defined in the draft final rule.

- Activities with MDIs, CDFIs, women's depository institutions, and low-income credit unions.
- Financial literacy, which would retain the proposed approach of qualifying activities assisting individuals, families, and households of all income levels, including LMI individuals, families, and households.

### Bank Asset Size Categories and Limited Purpose Banks

As is the case under the current regulation, the draft final rule would establish a tiered CRA evaluation framework that differentiates requirements by bank asset size. The draft final rule would also significantly build on metrics and other criteria that are used under the current framework, but in a more consistent and transparent manner.

Specifically, consistent with the proposal, the draft final rule would:

- Maintain the current CRA evaluation for banks with less than \$600 million in total assets (small banks) but provide them the option of evaluation under a new test for retail lending;
- Maintain the current community development evaluation and implement a new retail lending evaluation for banks with between \$600 million and \$2 billion in total assets (intermediate banks) and provide them the option of evaluation under a new test for community development financing; and
- Implement separate evaluations for retail lending, retail services and products, community development financing, and community development services for banks with over \$2 billion in total assets (large banks). For large banks with over \$10 billion in total assets, the evaluation of retail services and products would include digital delivery systems.

The draft final rule would also provide flexibility for banks with limited retail services and products (limited purpose banks) to be evaluated exclusively on community development financing activities. In addition, the draft final rule retains the strategic plan option for banks that can demonstrate that an alternative method for evaluation (a strategic plan) is appropriate.

### **Data and Reporting**

The draft final rule would not change data collection and reporting requirements for banks with less than \$2 billion in total assets (i.e., small and intermediate banks). Large banks would be subject to updated and expanded data collection, maintenance, and reporting requirements to support the implementation of metrics and benchmarks for retail lending,

community development financing, and retail services and products. The draft final rule would limit certain new data requirements to large banks with over \$10 billion in assets.

## **Evaluation Framework**

The draft final rule's performance evaluation framework would utilize performance tests to assess a bank's record of meeting the credit needs of its entire community, consistent with the agencies' objectives described above. Depending on a bank's asset size or limited purpose bank designation, and consistent with the proposal, the draft final rule would evaluate banks under one or a combination of the following seven performance tests:

### Retail Lending Test

Under the draft final rule, the Retail Lending Test would evaluate a bank's record of helping to meet the credit needs of its entire community through the bank's origination and purchase of home mortgage loans, multifamily loans, small business loans, small farm loans, and, for certain banks, automobile loans. The Retail Lending Test would evaluate how banks are serving LMI individuals, small businesses, small farms, and LMI census tracts in the bank's facility-based assessment areas and, as applicable, retail lending assessment areas and the bank's outside retail lending area.

The Retail Lending Test in the draft final rule would include two sets of metrics, as well as additional factors that would be used to complement the use of metrics.

- First, the Retail Lending Volume Screen would measure the volume of a bank's lending relative to its deposit base in its facility-based assessment area and would compare that ratio to the aggregate ratio for all reporting banks with at least one branch in the same facility-based assessment area.
- Second, under the draft final rule, the agencies would evaluate the geographic distribution and borrower distribution of a bank's major product lines in the bank's Retail Lending Test Areas (i.e., the bank's facility-based assessment areas, and, as applicable, retail lending assessment areas,<sup>16</sup> and outside retail lending area) using a series of metrics and benchmarks.

### Retail Services and Products Test

The Retail Services and Products Test would utilize a tailored approach to evaluate the availability of a bank's retail banking services and retail banking products and the responsiveness of those services and products to the credit needs of the bank's entire community, including LMI individuals, small businesses, small farms, and LMI census tracts. Retail banking services include retail financial services provided by a bank to consumers, small businesses, and small farms, and includes a bank's systems for delivering retail financial services. Retail banking products include credit and deposit products or programs that facilitate a lending or depository relationship between the bank and consumers, small businesses, or small farms.

Under the draft final rule, this performance test would maintain the overall approach set out in the proposal, with certain modifications, and would incorporate benchmarks to evaluate the availability of a bank's branch and remote service facilities (including ATMs) under the retail banking services aspect of the test. In addition, the agencies would evaluate the digital and other delivery systems of some banks.

### Community Development Financing Test

The Community Development Financing Test would evaluate how well large banks (and intermediate banks that opt into the performance test) meet the community development financing needs in each facility-based assessment area, each State, or multistate MSA, as applicable, and at the institution level.

The Community Development Financing Test would include the following elements:

- (1) a Community Development Financing Metric used to evaluate the dollar volume of a bank's community development loans and investments relative to the bank's deposit base;
- (2) standardized benchmarks to aid in evaluating performance; and
- (3) an impact and responsiveness review to ensure consideration of community development loans, investments, and services that are particularly impactful or responsive.

The draft final rule would also include a metric for banks with assets greater than \$10 billion to measure the bank's community development investments relative to deposits. This metric would be intended to ensure that a focus on certain bank community development investments (including Federal Low-Income Housing Tax Credit and New Market Tax Credit investments) is applied at the institution level and would only contribute positively to a bank's Community Development Financing Test conclusion.

### Community Development Services Test

The Community Development Services Test would consider the importance of community development services in fostering partnerships among different stakeholders, building capacity, and creating conditions for effective community development, including in rural areas. The agencies would evaluate large banks under this performance test in facility-based assessment areas, States, multistate MSAs, as applicable, and nationwide.

Under the draft final rule, the evaluation would include a qualitative review of relevant community development services data, and an impact and responsiveness review to assess services that are particularly responsive to community needs. The proposal would have allowed consideration of all volunteer activities that meet an identified community need in nonmetropolitan areas, but many commenters opposed the inclusion of volunteer activities unrelated to the provision of financial services in any location. Accordingly, the draft final rule would maintain the existing requirement that volunteer services considered

under the Community Development Services Test be related to the provision of financial services or the expertise of bank staff and must have a community development purpose.

Under the draft final rule, a bank would also receive consideration under the Community Development Services Test for activities that promote financial literacy for LMI individuals, households, and families, even if the activities benefit individuals, households, and families of other income levels as well. The proposal would have incorporated a metric measuring community development service hours per full-time employee for banks with assets greater than \$10 billion, but some commenters expressed concern with the complexity and burden associated with the requirement.

The draft final rule accordingly would not include this metric, as staff believe doing so would increase complexity and burden with limited benefit to assessing community development services.

#### Community Development Financing Test for Limited Purpose Banks

The draft final rule adopts the proposed Community Development Financing Test for Limited Purpose Banks, with changes made in response to commenter feedback. This performance test would include a qualitative review of a bank's community development lending and investments in each facility-based assessment area and an institution level-metric which would measure a bank's volume of activities relative to its capacity.

Like the proposal, the draft final rule would provide that all banks will receive consideration for any qualified community development loans, investments, or services, regardless of location. In assessing a large bank's Community Development Financing Test performance, the draft final rule includes a focus on performance within facility-based assessment areas. Specifically, when developing conclusions for a State, multistate MSA, or for the institution overall, the draft final or specific facility-based assessment area).

The Community Development Services Test would consider the importance of community development services in fostering partnerships among different stakeholders, building capacity, and credit conditions for effective community development, including in rural areas, in facility-based assessment areas, in States, multistate MSAs, as applicable, and nationwide.