

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 25

[Docket ID OCC–2010–0011]

FEDERAL RESERVE SYSTEM

12 CFR Part 228

[Docket No. R–1386]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 345

RIN 3064–AD60

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563e

[Docket ID OTS–2010–0019]

Community Reinvestment Act Regulation Hearings

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS).

ACTION: Public hearings; request for comments.

SUMMARY: The OCC, Board, FDIC, and OTS (collectively, “the agencies”) will hold a series of joint public hearings in four cities across the country to receive public comments on the agencies’ regulations governing procedures for assessing a financial institution’s performance under the Community Reinvestment Act (CRA). The purpose of the hearings is to seek a wide range of views on whether and how the agencies should revise their regulations to better serve the goals of the Community Reinvestment Act. The hearings will be held in: Arlington,

Virginia; Atlanta, Georgia; Chicago, Illinois; and Los Angeles, California. The dates and details of how to request participation are provided below.

DATES:

Public Hearing Dates:

1. July 19, 2010—Arlington, Virginia.
2. August 6, 2010—Atlanta, Georgia.
3. August 12, 2010—Chicago, Illinois.
4. August 17, 2010—Los Angeles, California.

Dates for Requests to Participate:

Participants who wish to present testimony or to attend one or more hearings in person must register five business days in advance of the hearing date at <http://www.ffiec.gov/cra/hearings.htm>. Presenters are also strongly encouraged to provide their written testimony five business days in advance of the requested hearing date. The time available for presentations and the space in the meeting rooms is limited. Therefore, participants are encouraged to register early. Additional information is available on the registration Web site and below under **SUPPLEMENTARY INFORMATION.**

Date to Submit Written Comments:

Written comments (other than testimony) may be provided to any agency as described below (under **ADDRESSES**) through August 31, 2010.

ADDRESSES:

Public Hearing Addresses:

1. July 19, 2010—FDIC’s L. William Seidman Center, 3501 Fairfax Drive, Arlington, VA 22201–2305.
2. August 6, 2010—Federal Reserve Bank of Atlanta, 1000 Peachtree Street Northeast, Atlanta, GA 30309.
3. August 12, 2010—Federal Reserve Bank of Chicago, 230 South La Salle Street, Chicago, IL 60614.
4. August 17, 2010—Los Angeles Branch of the Federal Reserve Bank of San Francisco, 950 South Grand Avenue, Los Angeles, CA 90015.

Addresses to Submit Written Comments: Persons are invited and encouraged to submit written comments addressing their views on the CRA regulations, whether or not they plan to testify at the hearings. Written testimony to be delivered at the hearings should be provided five business days in advance to the agency coordinating that hearing location: *Arlington:* FDIC; *Atlanta:* Office of Thrift Supervision; *Chicago:* Federal Reserve Board; and *Los Angeles:* Comptroller of the Currency. Other comments may be submitted to any agency listed below.

Because paper mail in the Washington, DC area and at the agencies is subject to delay, commenters are encouraged to submit comments by e-mail or the appropriate agency Web site, if possible. Please use the title “Community Reinvestment Act Regulation Hearings” and Docket or RIN numbers to facilitate the organization and distribution of the comments.

The agency addresses are as follows:

OCC: You may submit comments by any of the following methods:

- *E-mail:*

regs.comments@occ.treas.gov.

- *Mail:* Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 2–3, Washington, DC 20219.

- *Fax:* (202) 874–5274.

- *Hand Delivery/Courier:* 250 E Street, SW., Mail Stop 2–3, Washington, DC 20219.

Instructions: You must include “OCC” as the agency name and “Docket ID OCC–2010–0011” in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

- *Viewing Comments Electronically:*

Go to <http://www.regulations.gov>. Select document type of “Public Submissions,” enter “Docket ID OCC–2010–0011,” click “Search,” under “Agency” heading check “OCC,” to view public comments.

- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874–4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

- *Docket:* You may also view or request available background documents and project summaries using the methods described above.

Board: You may submit comments, identified by Docket No. R-1386, by any of the following methods:

- **Agency Web site:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/Regs.cfm>.

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **E-mail:** regs.comments@federalreserve.gov.

Include the docket number in the subject line of the message.

- **FAX:** (202) 452-3819 or (202) 452-3102.

- **Mail:** Address to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments will be made available on the Board's Web site at <http://www.federalreserve.gov/generalinfo/foia/Regs.cfm> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP-500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FDIC: You may submit comments identified by RIN 3064-AD60 by any of the following methods:

- **Agency Web site:** <http://www.FDIC.gov/regulations/laws/federal/notices.html>. Follow

instructions for submitting comments on the Agency Web site.

- **E-mail:** Comments@FDIC.gov.

Include RIN # [see above] on the subject line of the message.

- **Mail:** Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

- **Hand Delivery:** Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

Public Inspection: All comments received will be posted generally without change to <http://www.fdic.gov/regulations/laws/federal/propose.html>, including any personal information provided. Comments may be inspected and photocopied in the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1002, Arlington, VA 22226, between 9 a.m. and 5 p.m. (EST) on business days. Paper copies of public comments may be ordered from the Public Information Center by telephone at (877) 275-3342 or (703) 562-2200.

OTS: You may submit comments identified by OTS-2010-0019, by any of the following methods:

- **E-mail:** regs.comments@ots.treas.gov. Please include ID OTS-2010-0019 in the subject line of the message and include your name and telephone number in the message.

- **Fax:** (202) 906-6518.

- **Mail:** Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: OTS-2010-0019.

- **Hand Delivery/Courier:** Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Regulation Comments, Chief Counsel's Office, Attention: OTS-2010-0019.

Instructions: All submissions received must include the agency name and docket number for this notice. All comments received will be entered into the docket and posted on the Internet without change, including any personal information provided. Comments, including attachments and other supporting materials received are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Viewing Comments Electronically: OTS will post comments on the OTS Internet Site at <http://www.ots.treas.gov/?p=LawsRegulations>.

Viewing Comments On-Site: You may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906-5922, send an e-mail to public.info@ots.treas.gov, or send a facsimile transmission to (202) 906-6518. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

FOR FURTHER INFORMATION CONTACT:

OCC (Los Angeles, CA hearing): Barry Wides, Deputy Comptroller for Community Affairs, Barry.Wides@occ.treas.gov, (202) 874-4930 or Gregory Nagel, Compliance Policy Specialist, Gregory.Nagel@occ.treas.gov, (202) 874-0942, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board (Chicago, IL hearing): Joseph A. Firschein, Community Affairs Officer,

Joseph.A.Firschein@frb.gov, (202) 736-5531 or Jamie Goodson, Attorney, Jamie.Z.Goodson@frb.gov, (202) 452-3667 or Catherine M. J. Gates, Senior Project Manager, Cathy.Gates@frb.gov (202) 452-2099.

FDIC (Arlington, VA hearing): Janet Gordon, Senior Policy Analyst, Division of Supervision and Consumer Protection, JaGordon@fdic.gov, (202) 898-3850 or Richard Schwartz, Counsel, Legal Division (202) 898-7424, RiSchwartz@fdic.gov, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS (Atlanta, GA hearing): Stephanie Caputo, Senior Compliance Program Analyst, Stephanie.Caputo@ots.treas.gov, (202) 906-6549, or Richard Bennett, Senior Compliance Counsel, Richard.Bennett@ots.treas.gov, (202) 906-7409, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Background

The Community Reinvestment Act (CRA) (12 U.S.C. 2901 *et seq.*) is intended to encourage insured depository institutions to help meet the credit needs of their communities, including low- and moderate-income neighborhoods, consistent with safe and sound operation of the institutions. The CRA requires each of the agencies to use its authority when examining financial institutions to encourage such institutions to help meet the credit needs of the local communities they are chartered to serve. The agencies are required to consider this record in evaluating an application for a charter, deposit insurance, branch or other deposit facility, office relocation, merger, or holding company acquisition of an insured depository institution. Detailed information on CRA regulations and Interagency Examination Procedures are available on the Federal Financial Institutions Examination Council (FFIEC) Web site at <http://www.ffiec.gov/cra/default.htm>.

Public Hearings

The purpose of the public hearings is to receive public comments on the agencies' CRA regulations and to solicit views on whether and how the agencies should revise their CRA regulations to better serve the goals of the CRA. The agencies invite testimony (oral and written) on any issues regarding the

CRA from any interested person.¹ While the agencies recognize public comments may discuss matters requiring statutory changes, the agencies' focus is on potential regulatory changes.

To participate in or attend the hearings in person, registration is required at <http://www.ffiec.gov/cra/hearings.htm> and must be completed at least five (5) business days before the hearing date. Individuals proposing to testify are also strongly encouraged to provide their written testimony at the time of registration. The time available for presentations and the space in the meeting rooms is limited. Depending on the number of requests, the agencies may not be able to accommodate all who desire to speak or attend. In that case, the agencies will establish a waiting list. By providing an email address and daytime telephone number, you will enable us to confirm your participation and arrange security clearance.

The hearings will address the broad range of CRA issues listed below under Topics and Questions, as well as other CRA issues that may be suggested by participants. Individuals requesting to participate in the hearings should indicate to the agencies the primary topics they intend to cover. The agencies will organize panels of presenters who will have five minutes to make opening remarks. Representatives of the regulatory agencies will then ask questions of the panelists. In addition, there will be an opportunity for other participants to deliver oral statements of three minutes or less. While all of the topics will be open for discussion at all of the hearings, the agencies plan to organize panels that will include invited participants, to focus on particular topics in particular hearing locations. Panels are being considered in the hearing locations as noted below:

- *Arlington*: Community Development; Ratings and Incentives; Effect of Evidence of Discriminatory or Other Illegal Credit Practices on CRA Performance Evaluations.
- *Atlanta*: Access to Banking Services (focus on serving both unbanked and under-banked individuals and distressed and underserved areas; Revisions to CRA Performance Tests (focus on rural communities and small institutions).
- *Chicago*: Geographic Coverage; Affiliate Activities; Revisions to CRA Performance Tests.

- *Los Angeles*: Small Business and Consumer Lending; CRA Data Collection, Reporting and Disclosure, and Performance Evaluations.

Oral presentations will be limited to the time available. Potential presenters are, therefore, strongly encouraged to make their written testimony available to the agencies five business days in advance of the hearing to provide additional information and help facilitate the question period. Hearing proceedings will be recorded.

Details on the agendas of the specific hearings will be made available on the registration Web site. Confirmations will also be provided to the hearing presenters by email by an agency contact.

Written Comments

As noted above, individuals are invited and encouraged to submit written comments addressing their views on the CRA regulation, whether or not they plan to participate in the hearings. Persons wishing to provide written comments (other than testimony) may submit them as provided above through August 31, 2010.

Topics and Questions

The agencies are particularly interested in receiving hearing testimony and written comments on the following topics and questions:

Geographic coverage. What are the best approaches to evaluating the geographic scope of depository institution lending, investment and/or deposit-taking activities under CRA? Should geographic scope differ for institutions that are traditional branch-based retail institutions compared to institutions with limited or no physical deposit-taking facilities? Should it differ for small local institutions compared to institutions with a nationwide customer base? If so, how? As the financial services industry continues to evolve and uses new technologies to serve customers, how should the agencies adapt their CRA evaluations of urban and rural communities?

CRA performance tests, asset thresholds and designations. Should the agencies revise the criteria used to assess performance under the current CRA tests: Small institution; intermediate small institution; large institution; wholesale and limited purpose institution or strategic plan? Are the current asset thresholds that apply to institutions and tests appropriate?

Affiliate activities. Currently, the agencies consider affiliate activities only at the request of the related depository

institution. Should the agencies revise the regulation and, instead, require that examiners routinely consider activities by affiliates? If so, what affiliates or activities should be reviewed? How should consideration of affiliates affect the geographic coverage of CRA assessments?

Small business and consumer lending evaluations and data. Should the agencies revise the evaluation of and/or data requirements for small business and small farm lending activities or for consumer lending activities, including activities or products designed to meet the needs of low- and moderate-income consumers? If so, what changes are needed?

Access to banking services. How should access to financial services be considered under CRA? What changes would encourage financial institutions to expand access to un-banked and under-banked consumers in a safe and sound manner and to promote affordable, safe transaction and savings accounts? Should the agencies revise CRA to include additional regulatory incentives to provide access to services for historically underserved and distressed areas?

Community development. What are the opportunities to better encourage community development loans, investments and services to support projects that have a significant impact on a neighborhood? Should the agencies consider revisions to the Community Development Test or to the definition of community development? How could the rules most effectively balance support for community development organizations of different sizes, varying geographic scope, and in diverse rural and urban communities? How might they balance incentives for meeting local needs as well as the needs of very distressed areas or those with emergency conditions?

Ratings and incentives. Is there an opportunity to improve the rules governing CRA ratings to differentiate strong, mediocre, and inadequate CRA performance more consistently and effectively? Are there more effective measures to assess the qualitative elements of an institution's performance? Are there regulatory incentives that could be considered to encourage and recognize those institutions with superior CRA performance?

Effect of evidence of discriminatory or other illegal credit practices on CRA Performance Evaluations. Currently, the agencies' evaluations of CRA performance are adversely affected by evidence of discriminatory or other illegal credit practices as outlined in the

¹ These hearings do not fall under the Negotiated Rulemaking Act, 5 U.S.C. 561 *et seq.*, or the Federal Advisory Committee Act, 5 U.S.C. Appendix 2.

CRA rules. Are the existing standards adequate? Should the regulations require the agencies to consider violations of additional consumer laws, such as the Truth in Savings Act, the Electronic Fund Transfer Act, and the Fair Credit Reporting Act? Should the regulations be revised to more specifically address how evidence of unsafe and unsound lending practices adversely affects CRA ratings?

CRA disclosures and Performance Evaluations. Should the agencies consider changes to data collection, reporting, and disclosure requirements, for example, on community development loans and investments? What changes to public Performance Evaluations would streamline the reports, simplify compliance, improve consistency and enhance clarity? Should the agencies consider changes to how Performance Evaluations incorporate information from community contacts or public comments?

Dated: June 16, 2010.

John C. Dugan,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, June 15, 2010.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, June 16, 2010.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: May 26, 2010.

By the Office of Thrift Supervision.

John E. Bowman,

Acting Director.

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