



RESCINDED

Office of Thrift Supervision
Department of the Treasury
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June 18, 2010

MEMORANDUM FOR: CHIEF EXECUTIVE OFFICERS

FROM: Thomas A. Barnes *Thomas A. Barnes*
Deputy Director
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SUBJECT: Community Reinvestment Act: Joint Proposed Rulemaking

The Office of Thrift Supervision (OTS), Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board (FRB), and Office of the Comptroller of the Currency (OCC) (collectively, the “Agencies”) have proposed an amendment to the definition of “community development” used in the Community Reinvestment Act (CRA) regulations. The revised definition would allow for favorable consideration for loans, investments and services by banks and thrifts that directly support, enable or facilitate eligible projects or activities in HUD-approved designated target areas, in accordance with the Neighborhood Stabilization Program (NSP).¹ The expanded definition of “community development” would help to leverage NSP funds in areas experiencing high foreclosure or vacancy rates and the associated adverse impacts of property deterioration and neighborhood blight. These problems are projected to continue for several years and beyond and have affected middle-income census tracts as well as low- and moderate-income tracts.

Under this proposed rulemaking, the agencies would give favorable CRA consideration to activities that benefit low-, moderate- and middle-income individuals and areas in the designated target areas, consistent with NSP requirements. If a census tract is designated as NSP-eligible,² loans, investments, and services in that area that help to support NSP-eligible programs would receive favorable CRA consideration under the revised definition of “community development.” Examples of activities that would receive favorable consideration

¹ The Neighborhood Stabilization Program was established by the Housing and Economic Recovery Act (HERA) of 2008 and the American Recovery and Reinvestment Act (ARRA) of 2009. The program is structured as NSP-1, which awarded funds by formula to each of the 50 states and the Commonwealth of Puerto Rico, and NSP-2, which provided funds through a competitive process to state and local governments and nonprofit organizations, as well as to nonprofit consortia that submitted proposals in partnership with for-profit entities.

² HUD approves NSP action plans submitted by applicants that designate “areas of greatest need” for targeting NSP program activity. This proposed rule would provide for CRA consideration for a bank or thrift institution’s support of NSP-eligible activities in the geographies identified under these HUD-approved plans. The vast majority of NSP-eligible census tracts will be listed on HUD’s Web site at <http://www.hud.gov/nspmaps>. Those geographies not listed may be found in the approved individual plans.

include: donating other real estate-owned (OREO) properties to nonprofit housing organizations in eligible low-, moderate-, and middle-income geographies; financing the purchase and rehabilitation of foreclosed or vacant properties; and providing loans, investments, and services that support the redevelopment of demolished or vacant properties in these geographies, consistent with eligible uses of NSP funds.³ As proposed, the rule would provide CRA consideration for a two-year period after the final date by which NSP funds are required to be spent by grantees.

The NSP requires that funds be used to benefit families and individuals whose incomes do not exceed 120 percent of the area median income, which corresponds to middle-income levels. In addition, not less than 25 percent of the funds used must benefit families and individuals whose incomes are at or below 50 percent of area median income.

Although the CRA regulations and policy expressly encourage activities that benefit low- or moderate-income individuals and geographies, the Agencies have made limited exceptions to cover certain circumstances that may include middle-income individuals and geographies.⁴ We believe that CRA objectives are served by providing regulatory incentives to institutions to engage in activities that support the goals and requirements of the NSP.

Under the proposed rule, the Agencies would provide positive consideration for eligible activities provided by a financial institution within and outside of its assessment area(s), as long as the institution has adequately addressed the community development needs of its assessment area(s). Since many foreclosed properties owned by a financial institution may be located in areas outside of the institution's assessment area(s), the rule provides for CRA favorable consideration for disposing of these properties in a manner that supports the goals of the NSP.⁵

In addition to requesting comments on the rule generally, we specifically seek comment on:

- Whether the rule should “sunset” on a date specified in the rule and, if so, on what date;
- Whether the agencies should limit CRA consideration to those NSP-eligible activities shown in HUD-approved NSP plans or to activities undertaken by financial institutions that support activities funded by the NSP;
- Recognition of NSP-eligible activities outside of an institution’s assessment area(s);

³ Eligible uses of NSP funds include establishing financing mechanisms for the purchase and redevelopment of foreclosed homes and residential properties, including the use of “soft seconds,” loan loss reserves, and shared equity loans for low- and moderate-income homebuyers; purchasing and rehabilitating homes and residential properties that have been abandoned or experienced foreclosure, in order to rent, sell, or redevelop these homes and properties; establishing land banks for homes in foreclosure and the demolition of blighted structures; demolishing blighted structures; and redeveloping demolished or vacant properties.

⁴ See 71 FR 18614 (Apr. 12, 2006) on the revised definition of “community development,” which includes activities that help revitalize or stabilize distressed or underserved nonmetropolitan middle-income geographies.

⁵ There is precedent for expanding the CRA focus on assessment area(s) in certain temporary and exigent circumstances. In 2006, for example, the agencies issued a policy statement that provided favorable CRA consideration to an institution for engaging in activities that helped revitalize or stabilize areas affected by Hurricanes Katrina and Rita, even if those areas were located outside of the institution's assessment area(s), provided the institution had adequately met the CRA-related needs in its assessment area(s).

- The potential costs and benefits of the proposed rule if adopted; and
- Whether, and to what extent to which the proposed rule if adopted will affect an institution's decision about the amount and type of community development loans, investments, and services it will provide or the geographies it will target in doing so.

For more information, please contact Stephanie Caputo at (202) 906-6549 or Stephanie.Caputo@ots.treas.gov. The Federal Register notice announcing the proposed rulemaking is attached.

Link: [Federal Register Notice](#)

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