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COMMUNITY REINVESTMENT ACT: LEGAL ISSUES

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A. How does a financial institution obtain credit?

Financial institutions are evaluated in the context of information about the institution's financial condition and business strategies, the community's economic and demographic data, and its competitors. Depending on asset size, an institution is subject to one of three test formats: small (\$250 million or less in assets), intermediate (assets between \$250 and below \$1 billion), and large (assets above \$1 billion.) These figures may be adjusted annually and are reported on the CRA website. The tests are set forth as follows:

1. Small Institution Test: Regulators look at: loan to deposit ratio, percentage of loans in the assessment area, diversity of borrower characteristics, geographic distribution of loans, and responses to any CRA related complaints. Community services and development investments are not required but they can enhance a satisfactory rating to an outstanding.
2. Intermediate Institution Test: In addition to the lending test that small institutions are evaluated on, intermediate banks must also pass a community development test. This includes community development loans, services and investments.
3. Large Institution Test: Large Institutions are subject to three tests: lending, investment, and services. No large institution can pass the test unless it is at least "satisfactory" in the lending portion. The point system is five tiered: outstanding, high satisfactory, low satisfactory, needs to improve, and substantial noncompliance. Maximum points for each category are as follows: 12 for lending, 6 for investments, and 6 for services. An institution must earn 11 points to comply with the CRA.

A. The bank's CRA rating is considered when applying to open a branch, merge with another company, or upon application to become a financial holding company.

B. What is the assessment area?

Institutions define their assessment area, as the geographic area within which the bank will be examined for CRA compliance. The assessment area includes the area where the institution has its main office, its branches, and deposit taking ATM's. Assessment areas must consist of whole census tracts, which are small subdivisions of metropolitan areas ranging from about 2500-8000 people.

C. How is low and moderate income determined?

They are based off the average income for the assessment area. Low income is 50% of the area's average income. Moderate income is between 50-80% of the area's average income.

D. What types of loans and services qualify?

1. loans to borrowers for affordable housing rehabilitation and construction
2. loans to nonprofits serving low to moderate individuals
3. loans to community development banks
4. loans to local, state, and tribal governments for community development projects
5. loans to organizations that promote economic growth by financing small businesses and farms

6. providing financial services including: bilingual services, credit counseling, mortgage counseling, small business counseling, extended hours of operation, alternative delivery systems for retail banking (phone, mail, internet, at-work)
7. adequate market penetration of low to moderate income areas by branches and ATM's
8. institutions may buy and sell mortgage backed securities within the assessment area
9. institutions may buy equity positions in community development banks and claim a portion of their lending practices

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Actual resolution of legal issues depends upon many factors including variations of fact and state laws. This article is not intended to provide legal advice on specific subjects but rather to offer insight into legal developments and issues. Consult with legal counsel before taking action on matters covered in this article. Copyright 2007 Harriet B. Alexson. All rights reserved.