



An Introduction to the Community Reinvestment Act for Tribal Communities

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What is the CRA?

- CRA stands for The Community Reinvestment Act of 1977.
- The regulations implementing the CRA were revised in 1989, 1995, 2005 & 2010.



What is the purpose of the CRA?

➤ The CRA states:

- 1) Regulated financial institutions are required by law to demonstrate that their **deposit facilities** serve the convenience and needs of the communities in which they are chartered to do business;
- 2) “Convenience and needs” include the need for **credit services** as well as deposit services; and



Purpose of the CRA cont'd.

- 3) Regulated financial institutions have a continuing and affirmative obligation to **help** meet the credit needs of the **local communities** in which they are chartered.**

Consistent with “safe and sound**” operation of such institutions.

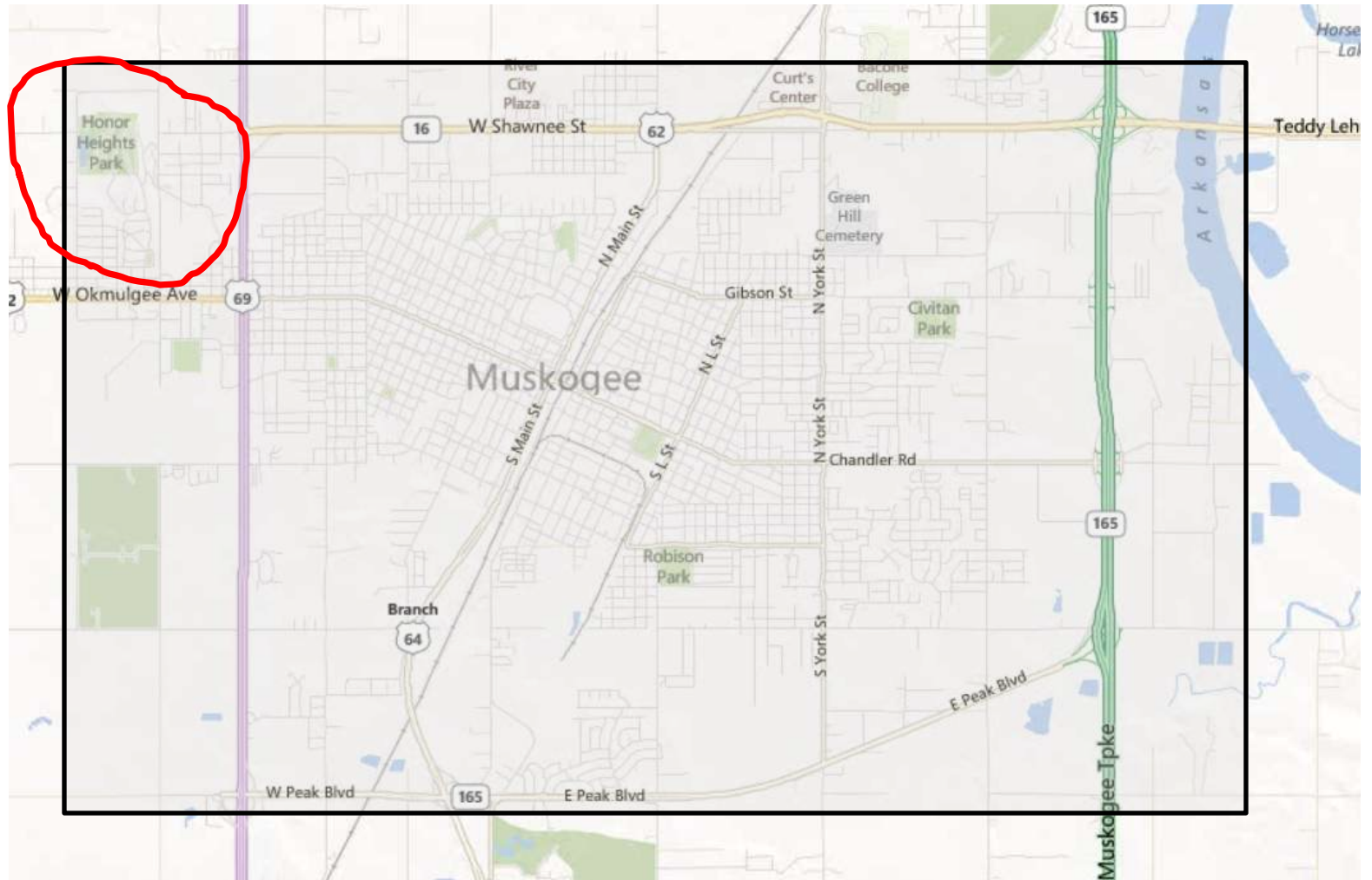


Said Another Way...

Because banks take in deposits from across their communities, they must make loans available in those same communities!

The practice of “redlining” was a key driver in the enactment of the CRA.

Muskogee, OK.





Low- and Moderate-Income

- What determines low- and moderate-income?
 - Low-income means an individual income that is less than 50 % of the area median income*
 - Moderate-income means an individual income that is between 50 - 80% of the area median income*

*Median Family Income is adjusted for family size – go to www.huduser.org to find MFI for your area



Who are the Regulators?

Federal Deposit Insurance Corporation (FDIC)

- Regulates non-Federal Reserve member banks that are State-chartered

Federal Reserve Bank (FRB)

- Regulates all bank holding companies, financial holding companies and state chartered member banks

Office of the Comptroller of the Currency (OCC)

- Regulates banks with a national charter



Regulators...but not for CRA

National Credit Union Association (NCUA)

- Credit Unions – not subject to CRA

Consumer Financial Protection Bureau (CFPB)

- Banks larger than \$10B for many consumer protection regulations but not CRA

Examination Categories

- Small Bank - Assets of less than \$1.186 billion* as of December 31st of either of the prior two calendar years.
- Intermediate Small Bank - Small Bank with assets of at least \$296 million* as of December 31st of both of the prior two calendar years, and less than \$1.186 billion* as of December 31st of either of the prior two calendar years
- Large Bank - assets of \$1.186 billion* or more for each of the last two years

*Annual adjustment of asset thresholds based on changes in the Consumer Price Index will be reported in the Federal Register. These asset-size threshold adjustments became effective on January 1, 2013.



Assessment Area

- Assessment Area (AA) - the geographic area in which CRA performance is evaluated.
- The AA must include geographies where the bank has its main office, its branches, and deposit taking ATMs, as well as surrounding geographies in which the bank has originated or purchased a majority of its loans.



The Performance Context

- The performance context is information about the bank, its community and its competitors and is included in the examination report.
- The information establishes base-line data from which to judge a bank's performance.
- Includes demographic, geographic, market, and community needs information as well as bank capacity. **Community contacts** are a valuable source of information.



**Small Banks
and
Intermediate Small Banks**



CRA Examinations - Small Bank

- Small Bank Lending Test:
 1. Loan-to-deposit ratio
 2. Lending in the assessment area ("in/out ratio")
 3. Borrower distribution
 4. Geographic distribution
 5. Resolution of consumer complaints



Small Bank Continued

- Loans reviewed are those that are the major business line(s) of the bank. Home lending almost always reviewed
- Qualified community development loans, investments and services are not considered, but at bank's request may be reviewed to enhance a Satisfactory rating to an Outstanding

CRA Examinations - ISB

➤ Two-part assessment:

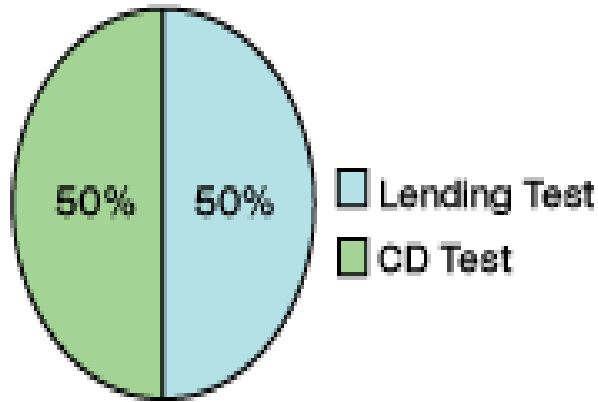
- 1. Lending Test** - the same as the Small Bank Lending Test (5 criteria)
- 2. Community Development Test** - includes the number and dollar amount of community development ("CD") loans & investments and the level of CD services

ISB vs. Large Bank Ratings

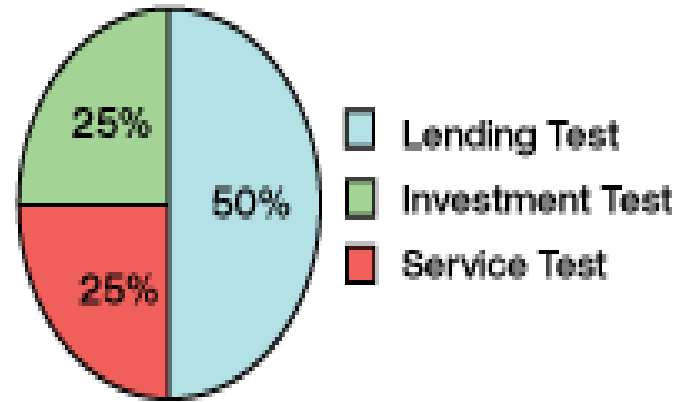
The chart below illustrates the components and weighting of the ISB examination and the large bank examination.

The test is designed to reduce the data burden on mid-sized banks and increase their options for addressing local CRA issues

Intermediate Small Bank



Large Bank





Large Banks

CRA Examinations – Large Bank

- Three part assessment:
 - 1) Lending Test – Core & CD Lending – 50% of weight
 - 2) Investment Test – CD – 25% of weight
 - 3) Service Test – CD and Non-CD – 25% of weight



Large Bank Lending Test

Lending Test

- **TYPES OF LOANS:** The Lending Test evaluates a bank's record of helping to meet the credit needs of its AA through its lending activities by considering the bank's:
 - Home mortgage loans
 - Small business loans including loans to small farms, and
 - **Community Development Loans**
 - plus any other consumer loan type if it is a substantial part of the bank's loan portfolio



Lending Test cont'd.

- Consideration for CD loans:
 - Number of loans and the **complexity** and **innovation** involved in making the loan
 - Use of **innovative** or **flexible** lending practices in a safe and sound manner to address credit needs of low- and moderate-income (“LMI”) individuals or geography



Lending Test cont'd.

- Lending activity evaluated on **WHERE & TO WHOM LOANS ARE MADE:**
 - Proportion of total loans within AA
 - Distribution within low, moderate, middle and upper-income census tracts
 - Distribution of home mortgage loans to different individuals of different income levels
 - Distribution of business loans to different sizes of businesses and farms



“Community Development” Defined

- 1) Affordable housing for LMI individuals and families
- 2) Community services targeted to LMI individuals
- 3) Activities that promote economic development by **financing** small businesses or small farms (size standard meeting SBA SBDC or SBIC programs or gross annual revenues of \$1M or less).



Community Development cont'd.

- 4) Activities that revitalize or stabilize:
- LMI geographies
 - Designated disaster areas
 - Distressed or underserved rural **middle-income** geographies, based on rates of poverty, unemployment and population loss or population size, density and dispersion, where the activity helps meet essential community needs, including the needs of LMI populations



Community Development cont'd.

- 5) Loans, Investments and Services in target areas defined by the Neighborhood Stabilization Program
 - Support, enable or facilitate projects or activities in target areas under the HUD administered Neighborhood Stabilization Program (NSP)
 - Are provided no later than 2 years after the last date NSP appropriated funds are required to be spent by grantees; and
 - Benefit LMI and middle-income individuals and geographies

Where CD Activities Take Place

- Consideration for CD loans, investments and services may be given if made in or benefit:
 - The bank's AA
 - A greater statewide or regional area that includes the bank's AA
 - Designated Major Disaster Areas as defined by FEMA for 36 months following designation. The FEMA website lists designated disaster areas.
 - Distressed & Underserved Rural Middle-Income Geographies as designated by the regulators
 - a county that has an unemployment rate of at least 1.5 times the national average
 - a poverty rate of 20% or more
 - population loss between censuses of 10% or more; net migration rate of 5%.



More Examples of CD Loans

- Loans to not-for-profit organizations serving primarily LMI housing or other community development needs
- Loans to financial intermediaries including CDFIs, CDCs, and community loan funds or pools
- Loans to local, state, and tribal governments for community development activities



Large Bank Investment Test



CD Qualified Investments

- Has a **primary purpose** of community development
- Is a lawful investment, deposit, membership share, or grant

Examples of Qualified Investments

- Investments in or grants to:
 - Financial intermediaries that lend in LMI areas or to LMI individuals in order to promote community development
 - Organizations that promote economic development by financing small businesses
 - Facilities that promote community development in LMI areas for LMI individuals
 - Projects eligible for low-income housing tax credits.



Large Bank Service Test

The Service Test

- The Service Test evaluates a bank's record of helping to meet the financial services needs of its AA by analyzing:
 - The availability and effectiveness of a bank's systems for delivering retail banking services, and
 - The extent and innovative nature of its community development services



Community Development Service

- Has a **primary purpose** of community development
- Is related to the provision of financial services
- Has not been considered in the bank's retail banking services



Examples of CD Services

- Providing technical assistance on financial matters to nonprofit, tribal or government organizations serving LMI housing or economic revitalization and development needs
- Serving on a board of organizations facilitating affordable housing construction and rehabilitation or development of affordable housing
- Developing and teaching financial education curricula for LMI individuals

Discriminatory Practices & CRA

- Equal Credit Opportunity Act or Fair Housing Act (discrimination on prohibited basis)
- Section 5 Federal Trade Commission Act (unfair or deceptive acts)
- Section 8 of Real Estate Settlement Procedures Act (kickback, fee splitting, unearned fees in settlement services)
- Truth in Lending Act's consumer right of rescission – Reg Z Truth in Lending (security interest in consumer's principal dwelling)
- Home Ownership and Equity Protection Act - Reg Z Truth in Lending (high APR and fees)



Public Access to Information

➤ Public Notice:

- A posted NOTICE that the public is entitled to certain information about the bank's operations and performance under the CRA must be posted in each of the bank's branches

➤ Public File:

- Contains information about the institution's CRA performance. Must be made available for viewing by members of the community
- Ensures public access to timely and accurate CRA information about the institution

Public Access to Information Cont'd.

- The public has the right to comment on a bank's performance under the CRA, and to comment on any application submitted to the federal bank regulatory agencies to acquire another bank, add a branch, etc.
- For exam schedules, CRA data, HMDA data, and application information, see the agencies' websites:
 - » www.ffiec.gov (CRA and HMDA data)
 - » www.fdic.gov
 - » www.federalreserve.gov
 - » www.occ.treas.gov



Tribal Communities & the CRA

- 49 States in the U.S. operate under English Common Law
- Louisiana is governed by the Napoleonic Code
- Native American Tribes are sovereign nations



Attracting Loans & Investments

- Banks make a return from loans & investments
- And receive CRA consideration for making loans and investments that have a community development purpose

How can a Tribe attract loans and investments for use in its communities?



Sovereign Immunity

- Choice of Venue
- Choice of Law



Safe & Sound Banking Practices

- The Five C's of Underwriting:
 1. Capacity
 2. Capital
 3. Collateral
 4. Conditions
 5. Character



Capacity

- Osage Nation Headrights



Collateral - Real Property/Land

- Cherokee, Chickasaw, Choctaw, Creek and Seminole
- Oklahoma's remaining 33 tribes



Collateral – Chattel

Not land or buildings...

- Equipment
- Commercial Vehicles
- Furniture and Fixtures
- Inventory and Receivables
- Livestock and Harvested Crops



Contracts & Enforcement

- Lien Records and Searches
- Lien Enforcement



Indian Business Alliances

- State-based coalitions
- Support Native American business & economic development



THANK YOU!

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