Office of Thrift Supervision
Department of the Treasury

Community Development Investment Authority

A Guide to the Federal Laws & Regulations Governing Community Development Activities of Savings Associations

December 1998

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INTRODUCTION:
Scope of Document

The Office of Thrift Supervision (OTS) is publishing this guide[1] to set forth the authority under which federal savings institutions may make loans and investments to promote affordable housing and other community development activities. These activities include those that promote jobs and economic development by financing small businesses or farms; community services targeted to low- or moderate-income individuals; and activities that revitalize or stabilize low- or moderate-income areas.

There are many different vehicles for promoting community development. The three principal vehicles are loans, investments (including grants), and other financial services. This handbook discusses:

- A thrift's authority to make both residential and nonresidential loans to provide credit for housing, small businesses, commercial development, and other consumer or economic development needs;
- A thrift's authority to make investments, including equity investments in real estate (such as affordable multifamily housing), special purpose corporations (such as Community Development Financial Institutions (CDFIs)), as well as investments in bonds or securities backed by loans;
- A thrift's authority to make grants or other types of charitable contributions, such as those needed to assist non-profit organizations; and the authority of thrift holding companies to engage in community development activities;
- Other types of financial services that an institution might provide in connection with its lending and investment activities targeted at low- and middle-income areas and individuals.

Because other regulatory considerations affect an institution's decision to engage in certain activities, this handbook will briefly address the Community Reinvestment Act (CRA), the qualified thrift lender (QTL) test, and regulatory capital implications of those decisions. We have included at the end of this guide a list of the names and telephone numbers of OTS' Community Affairs staff, who provide support to the industry's community development activities.

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[1] This guide is an update of an OTS document authored by Jeff Miner and John Flannery, published in May 1994, and entitled Community Development Investment Authority, a Guide to the Federal Laws & Regulations Governing Community Development Activities of Savings Associations. Sherri Stieg, Senior Attorney, was the primary author of this revised edition. We also acknowledge the assistance of the Federal Reserve Board staff in drafting Appendices A and B. For periodic updates to this guide, please refer to OTS Website: http://www.ots.treas.gov.

Receiving a favorable CRA rating is one of the many reasons why an institution may want to engage in various community development related activities. An institution may also be motivated by a desire to help revitalize and stabilize local communities in which it does business; enter new markets; develop new lines of business and customer bases; and enhance its public image. Ultimately, whatever the motivation, an institution should be looking for good business opportunities. Institutions are not expected to imprudently alter or relax their underwriting standards, or engage in poor or improper business practices for the sake of CRA or community development. Institutions have a responsibility to operate in a safe and sound manner at all times.

For ease of reference, the guide has the following features:

- Executive summary (information in the executive summary is repeated in the body of the guide, so readers seeking detailed information may wish to skip this section);
- Two main sections addressing:
  - A thrift's lending authority;
  - A thrift's investment authority;
- Appendix A: Promoting Community Development Through Banking Services;
- Appendix B: The Community Reinvestment Act Regulatory Evaluation Process (an overview);
- Appendix C: Qualified Thrift Lender Test;
- Appendix D: Capital Treatment (of common community development-related loans and investments); and
- Appendix E: OTS Contacts.

The guide does not address state laws, but most of the information in the guide is applicable to both state- and federally-chartered savings associations. A state savings association receives authority from its chartering state. Federal law, however, generally limits state savings associations to activities and investments of the type, and in the amount, permissible for federal savings associations.[2] Thus, subject to certain narrow exceptions,[3] state savings associations may

[2] 12 U.S.C. § 1831e(a).

[3] A state institution may engage in an activity permissible for a federal institution, but in an amount greater than what is permitted a federal institution provided that the Federal Deposit Insurance Corporation (FDIC) has not determined the activity poses a significant risk to the insurance fund and the institution meets its capital requirements. 12 U.S.C. § 1831e(b). Notwithstanding the foregoing, (except for service corporation investments), a state savings association is limited to nonresidential real estate loans and equity investments of a type and in an amount permissible for federal institutions. A state association may invest in a service corporation permitted by state law, provided that either 1) the investment is permissible for federal institutions or 2) the savings association meets its capital requirements and the FDIC determines that no significant risk to the insurance fund is posed by the amount of the investment or the proposed activities of the service corporation. 12 U.S.C. § 1831e(c).

engage in activities only if the activities are both authorized by state law and permissible for federal savings associations. The activities of state savings associations are also subject to federal laws regarding matters such as capital, loans-to-one-borrower (LTOB) limits, and the QTL test.

EXECUTIVE SUMMARY:

An Overview of Authorized Lending and Investment Activities for Federal Savings Associations

Lending Authority

Residential Loans. Subject to safety and soundness considerations, federal institutions are not limited as to amounts that they may invest in loans secured by single- and multifamily residential real estate.

Nonresidential Real Estate Loans. The general limit for loans secured by nonresidential real estate is 400% of an institution's capital. In addition, federal institutions may invest up to 5% of their assets[4] in nonresidential real estate loans secured by property located in any area "receiving concentrated development assistance by a local government under Title I of the Housing and Community Development Act of 1974" (HCDA). See discussion on page 8.

Commercial Loans. The limit for commercial loans is 20% of assets; but amounts in excess of 10% of assets must be invested in small business loans. Commercial loans made by service corporations are not aggregated with those of their parent thrifts for purposes of determining compliance with these limits.

Education, Credit Card and Consumer Loans. While there is a 35% of assets limitation on consumer loans, there is no limitation on the amount of education and credit card loans.

Investment Authority

Equity Investments in Real Estate. Federal savings institutions may invest up to 2% of their assets in real estate located in areas "receiving concentrated development assistance by a local government under Title I of the [HCDA]." Any such equity investments will be combined with nonresidential real estate loans made under HOLA § 5(c)(3)(A) for purposes of determining compliance with the 5% of assets limit noted above. See discussion on page 11.

Investments in Subordinate Organizations (Operating Subsidiaries, Service Corporations and Lower-Tier Entities). Federal savings associations may invest (debt and equity) up to 3% of their assets in service corporations; any amount exceeding 2% must serve primarily community, inner-city, or community development purposes. Investments in CDCs,

[4] This 5% of assets limitation applies to aggregate investments in certain real property and obligations secured by liens on real property.

Community Development Financial Institutions (CDFIs), and other community development organizations may qualify as service corporation investments if those entities are engaged in activities permissible for service corporations and meet geographic and ownership restrictions. The geographic and ownership restrictions do not apply to lower-tier entities owned by service corporations.

While there are no dollar limitations on investments in operating subsidiaries, there are ownership restrictions. In addition, operating subsidiaries may engage only in activities permissible for federal institutions. See discussion on page 13.

Pass-through Investments. Through its "pass-through authority," an institution may own a noncontrolling interest in a limited liability entity (such as a limited partnership or limited liability company) if 1) the entity engages solely in activities a federal savings institution may conduct directly and 2) the investment complies with all requirements that would apply if a savings institution were doing the activities directly. See discussion on page 16.

De Minimis Investments. Federal savings institutions may invest, in the aggregate, up to the greater of one-fourth of 1% of total capital or $100,000 in community development investments of the type permitted for a national bank under 12 C.F.R. § 24.3(a). See discussion on page 17.

Corporate Debt Securities and Securities Representing Interests in, or Backed by, Community Development Loans. In addition to securities permitted under HOLA § 5(c)(1)(C)-(F) (government securities), mortgage-backed securities permitted under HOLA § 5(c)(1)(R), and corporate debt securities permitted under HOLA § 5(c)(2)(D), federal institutions may invest in securities backed by loans in which they may invest directly. Government securities and securities covered by HOLA § 5(c)(1)(R) are not subject to investment limits under HOLA. To determine investment limits for other securities backed by loans, OTS looks to the nature of the underlying loans. See discussion on page 18.

Other Direct Investments. In addition to subordinate organizations, thrifts may make limited direct equity investments in business development credit corporations and National Housing Partnership Corporations. Federal savings associations may also invest in obligations of state housing corporations and, subject to certain limitations, obligations of state and local governments. See discussion on page 20.

Charitable Contributions. Through their incidental powers, federal institutions may make reasonable charitable contributions.

Holding Company Activities. Multiple holding companies may engage in any activity permissible for bank holding companies, which includes community development activities. Unitary holding companies with thrifts that meet QTL requirements may engage in any activity that does not threaten the safety and soundness of the subsidiary thrift.

Authorized Community Development Activities for Federal Savings Associations

Lending Authority

Federal savings associations have fairly broad lending authority, particularly with respect to housing loans.[5] Among the types of loans explicitly authorized under HOLA are the following:

Type of Loan	*12 U.S.C. §*	*Limit*
Commercial loans	1464(c)(2)(A)	Up to 20% of total assets, provided that amounts in excess of 10% of total assets may be used only for small business loans
Construction loans without security	1464(c)(3)(C)	The greater of total capital or 5% of total assets
Consumer loans	1464(c)(2)(D)	Up to 35% of total assets[6/7]
Credit card loans	1464(c)(1)(T)	No limit[8]
Education loans	1464(c)(1)(U)	No limit[8]
Home improvement loans	1464(c)(1)(J)	No limit[8]
Home (residential) loans	1464(c)(1)(B)	No limit[8]
HUD insured or guaranteed loans	1464(c)(1)(O)	No limit[8]

[5] Most restrictions address safety and soundness concerns. OTS expects all lending operations to be conducted prudently. 12 C.F.R. § 560.1. Loans must be made within LTOB limits. 12 C.F.R. § 560.93. The provisions of 12 C.F.R. §§ 560.33, 560.34, and 560.35 apply to home loans. Real estate loans are subject to regulations and published guidance at 12 C.F.R. §§ 560.100 and 560.101 (lending standards), 12 C.F.R. § 560.170 (records requirements), and 12 C.F.R. §§ 564.3 - 564.6 and 564.8 (appraisal standards). See also the Thrift Activities Handbook and pertinent Thrift Bulletins.

[6] For determining a federal savings institution's percentage of assets limitation, investments in commercial paper and corporate debt securities must be aggregated with the federal savings institution's investment in consumer loans.

[7] Amounts in excess of 30% of assets, in the aggregate, may be invested only in loans made by the institution directly to the original obligor and for which no finder's or referral fees have been paid. A federal savings institution may include loans to dealers in consumer goods to finance inventory and floor planning in the total investment made under this section.

[8] While there are no statutory limits on certain categories of loans and investments, including credit card loans, home improvement loans, and deposit account loans, OTS may establish individual limits on such loans or investments if an institution's concentration in the loans or investments presents a safety and soundness concern.

Insured loans (including HUD uninsured and VA guaranteed loans)	1464(c)(1)(I) 1464(c)(1)(K)	No limit[8]
Loans secured by deposit accounts	1464(c)(1)(A)	No limit[8/9]
Manufactured home loans	1464(c)(1)(J)	No limit[8/10]
Nonconforming residential and farm loans	1464(c)(3)(B)	5% of total assets
Nonresidential real property loans	1464(c)(2)(B)	400% of total capital[11]
Nonresidential real estate loans for community development-related purposes	1464(c)(3)(A)	Up to 5% of total assets[12]

As noted above, certain nonresidential loans are subject to investment limitations. If, however, a loan or other investment is authorized under more than one section of HOLA, institutions may choose under which section to count the loan or investment.[13] As an illustration, assume that an institution wanted to make a loan to develop property to be used as a community development facility, but the loan would exceed the institution's nonresidential real estate loan limit. The institution could still make the loan, if it could underwrite it as a commercial loan without exceeding its limit for commercial loans. Also, loans and investments may be apportioned among investment categories, and may be moved, in whole or part, from one category to another.

Residential Loans. One of the simplest, most direct ways that a federal savings association can support community development is by making housing loans in low- and moderate-income areas and to low- and moderate-income individuals. Federal institutions may invest unlimited

[9] Loans secured by savings accounts and other time deposits may be made without limitation, provided the federal savings institution obtains a lien on, or a pledge of such accounts. Such loans may not exceed the withdrawable amount of the account.

[10] If the wheels and axles of the manufactured home have been removed and it is permanently affixed to a foundation, a loan secured by a combination of a manufactured home and developed residential lot on which it sits may be treated as a home loan.

[11] A federal savings institution may make or invest in the portion of nonresidential real estate loans fully insured or guaranteed by the Economic Development Administration, the Federal Housing Administration, or the Small Business Administration. Unguaranteed portions of guaranteed loans must be aggregated with uninsured loans when determining an institution's compliance with the 400% of capital limitation for other real estate loans. Federal institutions may also invest in nonresidential real estate loans under 12 U.S.C. § 1464(c)(3)(A).

[12] This 5% of assets limitation applies to aggregate investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under Title I of the HCDA. 12 U.S.C. § 1464c(3)(A).

[13] 12 C.F.R. § 560.31.

amounts in single- and multifamily loans secured by residential real estate, including construction and rehabilitation loans – subject, of course, to safety and soundness considerations.[14]

Housing loans in low- and moderate-income areas provide important regulatory advantages. For example, subject to a cap,[15] 200% of mortgage loans count under the HOLA QTL test, if they are loans to purchase, construct, develop, or improve domestic residential housing in "credit-needy areas", or loans to purchase, construct, or develop "starter homes." All other residential and home equity loans are valued at 100% and includable without limit for QTL purposes. For more detailed QTL information, see Appendix C.

For risk-based capital purposes, portions of loans unconditionally guaranteed by a U.S. government agency are included in the 0% risk-weight category. Portions of loans guaranteed by U.S. government instrumentalities are included in the 20% risk-weight category. Portions of residential loans not guaranteed by the U.S. government, its agencies or instrumentalities are included in the 50% risk-weight category if they are "qualifying mortgage loans," "qualifying residential construction loans," or "qualifying multifamily mortgage loans." Otherwise, they are included in the 100% risk-weight category. For more detailed information about capital treatment of residential loans, see Appendix D.

Nonresidential Real Estate Loans. Besides housing loans, an institution can provide support to community development initiatives by financing or helping to finance the purchase, construction, or rehabilitation of nonresidential real estate such as daycare centers, business development centers, health care facilities, grocery stores, and other commercial centers. The general limit for loans secured by nonresidential real estate is 400% of an institution's capital.[16] However, under a special provision of HOLA – HOLA 5(c)(3)(A) – federal institutions may invest additional amounts up to 5% of their assets in nonresidential real estate loans[17] secured by property locat-

[14] Extensions of credit that are secured by liens on or interests in real estate are subject to 12 C.F.R. § 560.100-101, including the appended Interagency Guidelines for Real Estate Lending Policies, and Thrift Bulletin 72 (TB 72) dated August 27, 1998 on High LTV Home Mortgage Lending.

[15] For QTL test purposes, loans in "credit-needy areas" and "starter home" loans or investments are combined with certain other investments and subject to an aggregate limit of 20% of portfolio assets. 12 U.S.C. § 1467a(m)(4)(C).

[16] 12 U.S.C. § 1464(c)(2)(B).

[17] The 5% limit under 12 U.S.C. § 1464(c)(3)(A) is an aggregate limit for "investments in real property and obligations secured by liens on real property," so real estate investments and nonresidential loans under this section will be aggregated for the purposes of this 5% limit. Accordingly, if an institution makes equity investments up to the full 2% limit for equity investments, then it may invest only up to 3% of its assets in nonresidential real estate loans under this authority.

ed in any area "receiving concentrated development assistance by a local government under Title I of the [HCDA]." OTS will presume the following areas receive concentrated assistance:

- Any Empowerment Zone;
- Any Enterprise Community; or[18]
- Any area covered by a neighborhood revitalization strategy under HUD's CDBG program.[19]

For any other area, institutions should either document that the area receives significant funding through one or more programs administered by the Department of Housing and Urban Development (HUD) under Title I of the HCDA, or seek guidance from Community Affairs staff.[20] (Appendix E is a list of staff current as of the publication of this guide.)

OTS will also consider issuing "no action" letters concerning loans promoting community development in needy areas even though the areas may not be receiving "concentrated development assistance." Requests for these letters should be directed to the OTS Chief Counsel's Office, Regulations and Legislation Division, and contain information clearly demonstrating that the loans in question will be made in areas needing significant community development. OTS will take a practical, common sense approach to these determinations, considering factors such as the need for the proposed projects and whether the areas appear to be targeted for redevelopment.

Two hundred percent of an institution's loans to purchase, construct, develop, or improve "community service facilities" in, or primarily servicing people in, "credit-needy areas" count toward QTL requirements. Loans to construct, develop, or improve "community service facilities" in other areas also count toward QTL requirements, but only at 100% of value. Loans to construct, develop, or improve "community service facilities," whether or not they are in "credit needy areas," are combined with certain other types of investments and have an aggregate cap of 20% of portfolio assets.[21] No QTL credit is given for other nonresidential real estate loans. For more detailed information about QTL provisions, see Appendix C.

For risk-based capital purposes, loans secured by nonresidential real estate, except construction and land loans with loan-to-value ratios (LTVs) in excess of 80%, are in the 100% risk-weight category. The portion of construction and land loans that exceeds 80% LTV is deducted from total capital. For more detailed information about capital treatment for nonresidential real estate loans, see Appendix D.

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[18] Please refer to HUD's Website: http://www.ezec.gov for information on Empowerment Zones and Enterprise Communities.

[19] See HUD's regulations at 24 C.F.R. 91.215(e)(2), 570.204(b)(2), and 570.208(a)(l)(vii) and (d) (5)(1998).

[20] Your Regional Liaison may recommend seeking an opinion from the OTS Chief Counsel's Office if there is uncertainty about whether an area qualifies under 12 U.S.C. § 1464(c)(3)(A).

[21] 12 U.S.C. § 1467(a)(m)(4)(C).

Commercial Loans. Savings institutions may make commercial loans in amounts up to 20% of assets, but loans in excess of 10% must be invested in small businesses.[22] (Small business loans are those to businesses defined in 13 C.F.R. Part 121, and small business loans or small farm loans as defined in instructions for the Thrift Financial Report (TFR).[23] Generally, these are loans of $1.0 million or less for small business loans and $500,000 or less for small farm loans.)

In addition, OTS has amended its regulations to provide that commercial loans made by a service corporation are no longer aggregated with those of its parent thrift for purposes of determining compliance with these limits.[24]

Among the ways institutions may use their commercial lending authority to support community development activities are:

- Small business loans, including Small Business Administration (SBA) guaranteed loans;
- Loans to not-for-profit organizations serving primarily low- to moderate-income areas or individuals;
- Loans to support community facilities in low- and moderate-income areas or that support low- and moderate-income individuals;
- Loans to financial intermediaries including Community Development Financial Institutions, minority- and women-owned financial institutions, community loan funds or pools, and low-income or community development credit unions that primarily lend or facilitate lending to promote community development;
- Loans to local, state, and tribal governments for community development activities;
- Loans to finance environmental clean-up or redevelopment of industrial sites in low- and moderate-income communities; and
- Operating loans to developers who develop affordable housing.

[22] Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) § 2303, codified in part at 12 U.S.C. § 1464(c)(2)(A).
[23] 12 C.F.R. § 560.3
[24] 61 Fed. Reg. 50951 at 50957 and 50958 (Sept. 30, 1996).

For QTL purposes, 200% of loans to small businesses in, or owned by people in, "credit-needy areas," are included in qualified thrift investments, up to a cap of 20% of portfolio assets when aggregated with certain other investments. EGRPRA amended HOLA to allow 100% of other small business loans (whether located in a credit-needy area or not) to count as qualified investments (without being subject to the 20% of portfolio cap under the QTL test).[25] For additional QTL information, see Appendix C.

For risk-based capital requirements, commercial loans are included in the 100% risk-weight category. For additional information about capital, see Appendix D.

Investment Authority

In addition to making loans, institutions may invest directly or indirectly in projects or entities that promote community development. The investment vehicles available to federal institutions for community development fall within six categories discussed below: investments in real estate; investments in subordinate organizations (such as CDCs); pass-through investments; de minimis investments; investments in securities backed by community development loans; and other community development-related investments.

Direct Equity Investments in Real Estate. Although a federal savings association generally may not make direct equity investments in real estate other than for its own office quarters or in connection with foreclosure on a loan, there is an exception to this prohibition. Under § 5(c)(3)(A) of HOLA, federal savings institutions may invest up to 2% of their assets in real estate located in areas "receiving concentrated development assistance by a local government under Title I of the [HCDA]." Equity investments in real estate will be combined with nonresidential real estate loans made under HOLA § 5(c)(3)(A), for purposes of determining compliance with the aggregate limit of 5% of assets.[26]

To be permissible for investment, real estate must be located in areas receiving concentrated development assistance under the HCDA, or subject to an OTS "no action" letter. OTS will presume the following areas receive concentrated assistance:

- Any Empowerment Zone;
- Any Enterprise Community; or
- Any area covered by a neighborhood revitalization strategy under HUD's CDBG program.

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25 EGRPRA § 2303, codified in part at 12 U.S.C. § 1467a(m)(4)(C)(ii).
26 See footnote 16.

In addition, a May 10, 1995, OTS "no action" opinion (May 10 opinion), described an alternative and more practical standard for making community development investments in residential real estate under HOLA § 5(c)(3)(A).[27] OTS will not object to any residential real estate investment meeting the following six-part test:

- The investment must be located either in a Community Development Block Grant (CDBG) entitlement community, in a non-entitlement community that has not been specifically excluded by the state in its statewide submission for CDBG funds, or in an area that participates in the Small Cities Program;[28]

- The investment must be made in a residential housing project that benefits low- and moderate-income people (e.g. at least 51% of the units are reserved for occupancy by low- or moderate-income individuals or families);

- The investment must be safe and sound;[29]

- The institution's investment in the project, limited partnership, or corporation may not exceed the institution's LTOB limit;[30]

- If the institution does not qualify for expedited treatment pursuant to 12 C.F.R. § 516.3, it must give at least 14 calendar days notice to its OTS Regional Director before making the investment; and

- The investment must conform to all applicable laws, including the two percent aggregate investment cap under 12 U.S.C. § 1464(c)(3)(A).[31]

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[27] OTS Op. Ch. Co., May 10, 1995.

[28] Virtually all jurisdictions are covered by one of these designations, plus OTS will not object if federal savings institutions invest in limited partnerships or corporations that make multiple equity investments in diverse locations, if no more than 10% of the investments made by the limited partnerships or corporations are in locations not covered by this standard. Nevertheless, institutions should contact the appropriate local planning department or office of economic development and the HUD office in the region where the investment is to be made to determine, respectively, whether the area in question participates in the Small Cities Program or otherwise is not specifically excluded from receiving CDBG funds. OTS Op. Ch. Co., May 10, 1995.

[29] Whether or not OTS takes prior objection to a project following notice of the project, it is the responsibility of the institution to ensure that the project is safe and sound.

[30] 12 C.F.R. § 560.93.

[31] Institutions should maintain records documenting compliance with the foregoing, including, (if the investments are through a partnership or corporation), a written commitment from the limited partnership or corporation that it complies with standards one and two. OTS Op. Ch. Co., May 10, 1995.

OTS may also issue specific "no action" letters for investments that further the purposes of HOLA Part 5(c)(3)(A), but do not meet the express standards of this section or the standards in the May 10 opinion. For example, in a November 22, 1996 opinion, OTS determined that the investment of a federal institution in a limited partnership that develops supermarkets in low-income areas could qualify as an investment under this section of HOLA.[32] OTS determined that, although the project was commercial real estate, instead of residential real estate, it was "of the same general type as would be eligible for funding under Title I."[33] Based on assurances that, other than being a commercial (rather than residential real estate) project, the investment would meet the standards above, OTS issued a letter confirming that it would not take action against the institution for violating the HOLA.

Federal savings associations may use their real estate investment authority to make investments in a wide variety of community development real estate projects, including day care and health care facilities, business development centers, affordable housing developments, and home ownership counseling centers. Most frequently, thrifts have used their real estate investment authority to develop single- and multifamily housing for low- and moderate-income individuals or to make equity investments in low-income housing tax credit limited partnerships.

Whether real estate investments are includable in capital calculations depends on whether they would be permissible investments for national banks. Certain community development-related real estate investments are permissible for national banks under 12 C.F.R. Part 24 and, therefore, investments of this type would be includable in capital. For more detailed information about capital treatment see Appendix D.

The QTL treatment for real estate investments depends on the project. Subject to a cap of 20% of portfolio assets when aggregated with other investments, 200% of an association's loans and investments to purchase, construct, or develop "starter homes" would count toward its QTL requirement. For more information about how real estate investments are treated under QTL provisions, see Appendix C.

Investments in Subordinate Organizations (Operating Subsidiaries, Service Corporations, and Lower-Tier Entities).[34] There are many business reasons why institutions may wish to channel their community development activities through special purpose corporations or other types of limited liability entities such as CDCs and CDFIs. These reasons may include the

[32] Through "pass-through authority" described on page 24, subject to certain conditions, federal associations may invest in limited liability entities engaged solely in activities federal associations may engage in directly.

[33] OTS Op. Ch. Co., Nov. 22, 1996. OTS requires a showing that the project is of the same general type as would be eligible for funding under Title I of the HCDA, but does not require that projects meet all of the details of HUD provisions. In the November 1996 opinion, OTS determined "that commercial real estate development projects can receive Title I funding if, among other things, they either: (a) create or retain at least one full-time equivalent job per $35,000 of funds invested; or (b) provide goods and services to an area that has at least one low- or moderate-income person per $350 of funds invested." Id.

[34] Defined in 12 C.F.R. § 559.2.

potential public relations advantages of special purpose community development entities, a need to accommodate multiple investors, a desire to centralize community development management and expertise, or a desire to protect against potential liabilities.

Federal institutions may invest up to 3% of their assets in service corporations[35] (through loans and investments), but any amount exceeding 2% must serve "primarily community, inner-city, or community development purposes."[36] In addition, institutions may make other loans to service corporations and lower-tier entities owned by service corporations to the extent they have such authority available under other HOLA provisions (e.g., commercial loan authority). These loans by an institution (and its GAAP-consolidated subsidiaries -- generally majority-owned entities[37]) to non-consolidated subordinate organizations may not exceed 15% of the institution's capital per subordinate organization or 50% of the institution's capital, in the aggregate, for all subordinate organizations.[38]

A federal savings association's direct investment in a service corporation is subject to geographic and ownership restrictions. If an institution wants to directly invest in an entity under service corporation authority, the entity must be incorporated in the state of the home office of the investing institution.[39] Also, no entity other than a savings institution may invest in the corporation.[40]

These ownership and geographic restrictions do not apply to lower-tier entities (such as joint ventures, corporations, or partnerships) that may be owned by service corporations.[41] Thus, a federal savings institution may invest in a corporation that is chartered in another state or that has non-thrift investors, by making the investment through a service corporation.

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[35] An investment in a corporation would also be permissible if the corporation qualified as an operating subsidiary. However, an operating subsidiary's activities are limited to those the thrift may conduct directly. 12 C.F.R. § 559.3(e)(1). Further, more than 50% of a subsidiary's shares must be owned directly or indirectly by its parent thrift and no person or entity other than the parent thrift may exercise effective operating control. 12 C.F.R. § 559.3(c)(1). Given these restrictions, most equity investments in community development organizations are done under other authority.

[36] 12 U.S.C. § 1464(c)(4)(B). Pursuant to 12 C.F.R. § 559.5, institutions must designate investments serving community development purposes. The regulation lists the following as investments serving community development purposes: (i) investments in governmentally insured, guaranteed, subsidized, or otherwise sponsored programs for housing, small farms, or businesses that are local in character; (ii) investments for the preservation or revitalization of either urban or rural communities; (iii) investments designed to meet the community development needs of, and primarily benefit, low- and moderate-income communities; or (iv) other community, inner city, or community development related investments approved by OTS.

[37] Defined in 12 C.F.R. § 559.2.

[38] 12 C.F.R. § 559.5(b) and (c).

[39] 12 U.S.C. § 1464(c)(4)(B) and 12 C.F.R. § 559.3(d)(2).

[40] 12 U.S.C. § 1464(c)(4)(B) and 12 C.F.R. § 559.3(b)(2).

[41] 12 C.F.R. § 559.3(f)(2). As explained below, they also do not apply to investments that qualify as "pass-through" investments.

Federal savings associations may use their authority under 12 C.F.R. Part 559 to make investments in CDCs, CDFIs, community development credit unions, small business investment companies, and other special purpose entities as long as the activities of that entity are permissible for a service corporation. Service corporations may engage in numerous community development-related activities, including the preapproved activities enumerated in 12 C.F.R. § 559.4.[42] Such activities include:

- Any activity (except taking deposits) that a federal savings association may conduct directly (e.g., lending activities targeted at low- and moderate-income individuals and areas);
- Real estate activities, such as maintaining and managing real estate; acquiring real estate for prompt development, construction or improvement; acquiring improved real estate for remodeling, renovating or rebuilding and for sale or rental, providing home ownership and financial counseling;
- Investments in tax-exempt bonds used to finance residential real property for family units;
- Investments in low-income housing tax credit projects and entities authorized by statute (such as CDFIs) to promote community, inner city, and community development purposes;
- Investments in governmentally insured, guaranteed, subsidized or otherwise sponsored programs for housing, small farms, or businesses that are local in character;
- Investments that meet the community development needs of, and primarily benefit, low- and moderate-income communities;
- Investments in a corporation that is recognized by the Internal Revenue Service as organized for charitable purposes under § 501(c)(3) of the Internal Revenue Code and making a reasonable contribution to capitalize it, provided that the corporation engages exclusively in activities designed to promote the well-being of communities in which the owners of the service corporation operate.

[42] If an institution is eligible for expedited treatment under 12 C.F.R. § 516.3(a) and notifies OTS and FDIC as required by 12 C.F.R. § 559.11, the institution's service corporation may engage in preapproved activities listed in 12 C.F.R. § 559.4. If the institution is not eligible for expedited treatment, but notifies OTS as required by 12 C.F.R. § 559.11, the institution's service corporation may engage in any activity that the institution may conduct directly except taking deposits. For other activities, thrifts must apply under 12 C.F.R. § 516.1 and receive OTS approval.

Institutions may request OTS approval for service corporations to engage in other non-preapproved activities reasonably related to the activities of financial institutions by filing an application in accordance with 12 C.F.R. § 516.1.[43]

Under the QTL statute, savings institutions may include as qualified thrift investments 100% of their equity and debt investments in service corporations or operating subsidiaries that derive at least 80% of their annual gross revenues from activities directly related to purchasing, constructing, refinancing, improving, or repairing residential housing. For such inclusion, however, the amount of these investments, when combined with certain other types of investments, may not exceed 20% of portfolio assets.[44] For more specific information about QTL provisions, see Appendix C.

For capital purposes, investments in subordinate organizations are divided into investments in includable subsidiaries, nonincludable subsidiaries and equity investments. The assets of includable subsidiaries (GAAP-consolidated subsidiaries engaged only in activities permissible for national banks) would be consolidated with those of the parent thrift. Investments in nonincludable subsidiaries (GAAP-consolidated subsidiaries engaged in activities not permissible for national banks) are deducted from core capital. Equity investments in unconsolidated subordinate organizations would be included in capital, in the 100% risk-weight category, if they are equity investments permissible for national banks; and deducted from total capital if they are not permissible for national banks. For more detailed information about treatment of investments in subordinate organizations under capital regulations, see Appendix D.

Pass-through Investment Authority. Under 12 C.F.R. § 560.32, a federal savings association may make limited investments in certain preapproved entities that are not designated as subordinate organizations under 12 C.F.R. Part 559. This authority is limited to non-controlling interests in limited liability entities engaged solely in activities federal savings institutions may conduct directly. The investments must comply with all requirements that would apply if savings institutions were doing the activities directly.

Without notice to the OTS, an institution may make a pass-through investment if all of the following criteria are satisfied: (1) the institution will not control the entity; (2) the institution's liability is limited; (3) the institution's investment per entity is limited to 15% of the institution's capital; (4) the aggregate book value of all investments under this authority does not exceed 50% of the institution's capital; and (5) the entity is one of the following: a limited partnership, an open-end mutual fund, a closed-end investment trust, or a limited liability company. If the investment does not meet all of these requirements (for example, the entity is a corporation

[43] 12 C.F.R. § 559.3(e)(2).
[44] 12 U.S.C. § 1467a(m)(4)(C).

rather than one of the limited liability entities listed), the thrift must file a 30-day advance notice with the OTS.[45]

For community development purposes, thrifts may use the pass-through investment authority to invest in limited partnerships or limited liability companies that, for example, acquire and develop real estate pursuant to HOLA § 5(c)(3)(A) (e.g., low-income housing tax credit limited partnerships).

Investments made under the "pass-through" authority may be considered qualified thrift investments, on a pro rata basis, to the extent the underlying investments would be included in QTI if invested in directly by the savings institution.[46]

To the extent the investments are permissible for national banks, investments made through "pass-through" authority would be includable in capital calculations and generally assigned to the 100% risk weight category. For more detailed information, see Appendix D.

De Minimis Investments. A federal savings institution may invest, in the aggregate, up to the greater of one-fourth of 1% of its total capital or $100,000, in community development investments of the type permitted for a national bank as described in 12 C.F.R. § 24.3(a). Generally, these would be investments that primarily benefit low- and moderate-income individuals, low- and moderate-income areas, and other areas targeted for redevelopment by a local, state, tribal, or federal government (including federal enterprise communities and federal empowerment zones) by providing or supporting one or more of the following activities:

1. Affordable housing, community services, or permanent jobs for low-and moderate-income individuals;
2. Equity or debt financing for small businesses;
3. Area revitalization or stabilization; or
4. Other activities, services, or facilities that primarily promote the public welfare.

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[45] Under 12 C.F.R. § 560.32(c), an institution must file written notice with its applicable OTS regional office 30 days in advance of the proposed investment. The notice should: (a) describe the investment and include supporting documents; (b) describe the activities in which the entity will engage and demonstrate that the activities are activities the institution could engage in directly and that the investment will comply with all requirements applicable if the institution engaged in the activity directly (e.g., investment and LTOB limitations); (c) discuss which requirements of 12 C.F.R. § 560.32 the investment meets; and (d) explain how the investment is safe and sound and should be approved although it does not meet all of the requirements of 12 C.F.R. § 560.32. If within the 30-day period OTS notifies an institution that an investment presents supervisory, legal, or safety and soundness concerns, the institution must apply to the OTS under 12 C.F.R. § 516.1 and may not make the investment without receiving prior written approval from the OTS.

[46] OTS Op. Ch. Co., July 14, 1992.

Under 12 C.F.R. § 560.36, there are no restrictions as to control, geographic location, ownership, or organizational structure.

QTL treatment depends on the type of investment made. For more detailed information, see Appendix C.

For risk-based capital purposes, de minimis investments are included in the 100% risk-weight category. For more information, see Appendix D.

Corporate Debt Securities and Other Securities. Some institutions might want to invest in corporate debt securities or other securities representing interests in, or backed by, pools of loans[47] that benefit low- or moderate-income areas or persons, including small business loans. This may allow institutions to make smaller investments than if they originated the loans. Because of diversification, securities representing an interest in pools of loans might be less risky than direct loans, particularly if the securities are properly underwritten and have credit enhancements, such as government guarantees. There may also be lower administrative costs.

OTS has opined that, in addition to U.S. and federal government sponsored enterprises securities described in HOLA §§ 5(c)(1)(C) through (F) and mortgage-backed securities permitted under HOLA § 5(c)(1)(R) and corporate debt securities permitted under HOLA § 5(c)(2)(D), investments in other securities backed by loans are allowed because the HOLA definition of "loan" includes "interests" in loans. HOLA does not limit the amount a federal institution may invest in government securities and securities covered by HOLA § 5(c)(1)(R). To determine investment limits on other securities, OTS looks to the nature of the underlying loans securing the investments[48] and uses the limits set forth in the table on page 6.[49]

Section 28 of the Federal Deposit Insurance Act (FDIA), 12 U.S.C. § 1831e(d), prohibits savings associations from acquiring or retaining any "corporate debt security not of investment grade" unless the security is issued or guaranteed by certain government-sponsored corporations. Thus, before investing in the securities that are not rated or government-insured, or guaranteed or issued by Neighborhood Housing Services of America,[50] savings associations must seek a determination from the FDIC that the securities would not be considered corporate debt securities.

[47] The term "other securities" means: (i) securities that convey an undivided interest in the underlying loans, and therefore, entitle their holders to a direct pass through of interest and principal payments received on those loans (minus operating expenses); and (ii) securities that are collateralized by community development loans and entitle their holders to receive the cash flow generated by such loans (minus operating expenses), even though this cash flow may be disaggregated and repackaged to create various tranches of securities with differing rates of return. However, the term does not include any tranche of securities with residual characteristics.

[48] OTS Op. Ch. Co., March 28, 1996, citing, OTS Op. Ch. Co., Dec. 19, 1991; and Federal Home Loan Bank Board (FHLBB) Op., Raiden, Oct. 9, 1984.

[49] In addition, under HOLA § 5(c)(1)(S), federal institutions may invest in small business related securities as defined in 15 U.S.C. § 78c(a)(53). Although HOLA does not set a limit on these investments, OTS may establish individual limits if an institution's concentration in such investments presents a safety and soundness concern.

[50] OTS Op. Ch. Co., Mar. 28, 1996. This opinion notes that the FDIC has opined that NHSA securities are not "corporate debt securities" for purposes of FDIA § 28.

Under limited circumstances, some types of securities (such as securities backed by home mortgages) may not be subject to the LTOB limits, but savings institutions should assume that their investments in securities backed by loans will be classified as loans, and therefore, subject to the LTOB rules. Accordingly, institutions should generally invest no more than 15% of their unimpaired capital and surplus in securitized loans or mortgage-backed securities by the same originator or issuer, whether or not they are recourse investments. The OTS, however, may permit an institution to apply the LTOB limits directly to the underlying loans, if an institution reviews each of the loans underlying the securities pursuant to the association's customary underwriting standards for loan originations, and documents that the underlying loans meet those standards without reference to any recourse commitment issued by the seller.[51]

Securities representing interests in loans receive the same QTL treatment as the underlying loans.[52] For more detailed QTL information, see Appendix C.

As set forth in Appendix D, high-quality mortgage-related securities may qualify for the 20% risk-weighted category for risk-based capital purposes. Non-high quality securities backed by qualifying residential mortgages fall within the 50% risk-weighted category. Other interests in pools of assets are assigned the risk-weight category of the underlying assets, but no less than a 20% risk-weight (e.g., 100% risk-weight for pools of home loans that are not qualifying mortgages). Generally, if the pool contains different risk-weighted assets, then all assets will be assigned the category of the asset with the highest risk-weight, except that if it contains assets that must be deducted, all will be deducted.[53]

State and Local Government Obligations. Under HOLA § 5(c)(1)(H), Federal savings associations may invest in obligations issued by a state or political subdivision of a state provided that 1) no more than 10 percent of their total capital is invested in the obligations of any one issuer (exclusive of general obligations), and 2) the obligations hold one of the four highest national investment grade ratings, or they are issued by a public housing agency and backed by the full faith and credit of the United States.[54] In addition, federal associations may invest, in the aggregate, up to one percent of their assets in the obligations of a state, territory, possession, or political subdivision in which the association's home office or branch office is located.[55]

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[51] If, however, the OTS concludes that a savings institution has purchased loans in securitized form for the express purpose of evading the LTOB limits, it will apply the limit to the underlying loans. For example, a savings institution that makes the maximum amount of loans permissible to a single borrower and then knowingly purchases securities backed by loans to that same borrower will be deemed to have violated the LTOB limits. OTS Op. Ch. Co., Nov. 28, 1996.

[52] OTS Op. by Williams, March 5, 1993.

[53] 12 C.F.R. § 567.6(a)(1)(vi). The capital requirement for interests in pools of assets may change in light of the forthcoming finalization of a proposed interagency rule originally proposed on October 27, 1997, and expected to be finalized by the first quarter of 1999.

[54] 12 C.F.R. § 560.42.

[55] Id.

Other Direct Investments. HOLA permits other limited direct investments[56] as follows:

Investment	***12 U.S.C. §***	***Limit***
Business development credit corporations	1464(c)(4)(A)	The lesser of 0.5% of total outstanding loans or $250,000
National Housing Partnership Corporations and related partnerships and joint ventures	1464(c)(1)(N)	No limit[57]
Secured obligations of state housing corporations	1464(c)(1)(P)	No limit[58]

Charitable Contributions. Through their incidental powers, federal institutions are authorized to make reasonable charitable contributions.[59] Contributions are permissible if they promote better public relations, are reasonable in duration and amount, and produce beneficial advertising for the thrift, consistent with OTS policy.[60] As a general guideline, funds contributed to charities should not exceed the limitations on charitable deductions under the Internal Revenue Code (generally 10% of taxable income).[61] Contributions are subject to OTS review during examinations and are subject to any applicable state or local laws.[62]

Holding Company Activities. Institutions may rely upon their holding companies or other affiliates to conduct community development activities. Reasons for a holding company to do the investment include limiting potential exposure by the thrift; making an investment not permitted or in excess of HOLA limits for savings institutions; or engaging in a wider range of investments.

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56 Recent changes in EGRPRA effectively nullified thrifts' ability to directly invest in certain Small Business Investment Companies under 12 U.S.C. § 1464(c)(4)(D).

57 While there are no statutory limits on these investments, OTS may establish individual limits if an institution's concentration in such investments presents a safety and soundness concern.

58 Investments in state housing corporations are subject to the provisions at 12 C.F.R. § 560.121. While there are no statutory limits on investments in state housing corporations, OTS may establish individual limits if an institution's concentration in such investments presents a safety and soundness concern.

59 Questions and Answers Regarding Savings Associations' Investments in and Loans to Community Development Corporations, n. 4 (March 24, 1993), citing, Op. General Counsel FHLBB, June 10, 1987.

60 OTS Op. Gen. Co., Dec. 26, 1991, citing, FHLBB Op. Gen. Co., June 10, 1987.

61 An institution that is considering establishing a charitable foundation should contact OTS' Business and Transactions Division to discuss additional considerations.

62 OTS Op. Gen. Co., Dec. 26, 1991.

Generally, a multiple holding company[63] may engage only in activities permissible for bank holding companies.[64] Permissible activities are described in 12 C.F.R. §§ 225.24 and 225.28 and include "making equity and debt investments in corporations or projects designed primarily to promote community welfare, such as the economic rehabilitation and development of low-income areas by providing housing, services, or jobs for residents."[65]

Other holding companies have fewer restrictions. For example, unitary holding companies[66] and holding companies that control thrifts that all (or all but one) were initially acquired pursuant to section 13(c) or 13(k) of the FDIA (relating to acquisitions of financially troubled institutions)[67] may be exempt from most holding company activities restrictions.[68] Exempt holding companies and their subsidiaries (other than savings institutions and service corporations) may engage in any community development activity, provided that the subsidiary savings institutions meet QTL requirements[69] and the activities do not threaten the financial health of the subsidiary savings institutions.

63 A multiple holding company is a company that controls more than one savings institution. 12 U.S.C. § 1467(a)(1)(E).

64 12 C.F.R. § 584.2. To commence such activities, a holding company must comply with the application procedures in 12 C.F.R. § 584.2-2(b).

65 12 C.F.R. § 225.28(b)12(I).

66 A unitary holding company is a company that controls only one savings institution.

67 12 U.S.C. § 1823(c) and (k).

68 HOLA 10(c)(3), codified at 12 U.S.C. § 1467a(c) and 12 C.F.R. § 584.2a(a).

69 Holding companies of institutions that do not meet QTL requirements are limited to activities permissible for bank holding companies. 12 U.S.C. § 1467a(m)(3)(C).

APPENDIX A:
Promoting Community Development Through Banking Services

Institutions can lend considerable support to community revitalization initiatives through the provision of financial services, as well as loans and investments. In some communities, such as low-income urban areas, rural and tribal communities, access to financial services is critically important. In other communities, services better targeted to the needs of the community and its residents may be needed. Since access to banking services can have a profound impact on communities, it is important for institutions to assess the availability and array of financial services in certain markets in which they do business.

Branch Locations

Retail institutions with branches should evaluate the extent to which neighborhoods and communities they serve have convenient access to their retail banking services. It is especially important to determine the extent to which persons and businesses in low- and moderate-income geographies have convenient access to the institution's services. Since branch location is often a significant factor in determining how well certain geographic areas of a community are served, institutions should recognize both the benefits of branch openings and the potential negative impact of branch closures on the nature and extent of banking services provided in low- and moderate-income areas.

The potential impact of branches, or their absence in certain areas, usually affects more than deposit services. Branch locations often affect the volume of loan applications and credit extensions in the neighborhoods served by the branch and may significantly impact an institution's ability to effectively penetrate certain markets. This may be especially apparent where an institution does not use effective alternative delivery systems for credit services.

Moreover, a pattern of branch openings and closings that, over time, disadvantages low- and moderate-income areas may communicate a general disinterest in serving low- and moderate-income persons, or small neighborhood businesses. Such perceived institutional disinterest can make it more difficult for an institution to effectively market its credit products or use alternative delivery systems in low- and moderate-income areas.

There can be other potentially adverse effects on neighborhoods when branch services are reduced or branches close. Loss of community confidence, increased difficulty in attracting new neighborhood businesses, or security problems for small business and individual customers who may be required to travel greater distances to transact banking business could result. These problems, in turn, could damage the capacity of an institution to generate loans and investments in such neighborhoods. And to the extent that institutions already have loans and investments in

these neighborhoods, their value may diminish with any overall decrease in neighborhood economic activity.

Given the implications of branch deployment for an institution's deposit and loan businesses, many institutions have chosen to serve some areas with branches that are smaller, scaled-back versions of full-service branches (in lieu of closing a branch altogether). These mini-branches can provide limited services, but ones tailored to the needs of the particular area.

As a result of 1991 amendments to the Federal Deposit Insurance Act, financial institutions are now required to provide advance notice to their customers and to their supervisory agencies before closing a branch office. Each notice to a supervisory agency must include a statement detailing the institution's reasons for closing the branch and supporting statistical or other information used in making the decision.

All FDIC-insured institutions must also adopt branch closing policies. In developing its branch closing policy, an institution should consider including procedures designed to assess and help mitigate any negative effects on the community served by the branch being closed.

Alternative Delivery Systems

In considering its branch deployment, retail institutions might want to consider alternative mechanisms for delivering retail banking services, particularly in low- and moderate-income areas that are not conveniently served by full-service branches. These may include use of:

- Limited service, or storefront "branches";
- Branches in retail stores;
- Mobile branches that regularly visit businesses, high traffic locations in low- and moderate-income areas, or which are used to cover less-populated rural areas;
- Multi-institution or "shared branches," that house branch personnel from a number of institutions;
- Bank-owned, stand-alone automatic teller machines;
- Shared access ATMs;
- Bank by telephone and computer, or bank by mail programs, sometimes in conjunction with basic banking accounts;
- Mortgage and small business loan production offices;

- "Street bankers" who regularly call on housing assistance organizations, realtors, small businesses or farmers in low- and moderate-income areas.
- Banking centers operated by third-party, non-profit intermediaries.

Where these and other alternative delivery mechanisms are used effectively, they can help institutions to generate additional loans and investments in their market areas.

Community Development Services

Community development services are another vehicle for financial institutions to support the economic health of low- and moderate-income communities. As discussed in Appendix B, to be eligible for consideration under the Community Reinvestment Act, such services would include those that support affordable housing for low- and moderate-income individuals, small business development, community facilities providing services targeted to low- and moderate-income persons, and other related activities that help revitalize or stabilize low- and moderate-income areas. In addition, community development services must be related to the provision of financial services. For CRA purposes, among other things, community development services would include:

- Providing technical assistance on financial matters to nonprofit, tribal or government organizations serving low- and moderate-income housing or economic revitalization and development needs;
- Providing technical assistance on financial matters to small businesses or community development organizations serving small businesses;
- Lending employees to provide financial services for organizations facilitating construction, rehabilitation or development of affordable housing;
- Providing credit counseling, home buyer and home maintenance counseling, financial planning or other financial services education to promote community development and affordable housing;
- Establishing school savings programs for low- or moderate-income individuals;
- Administering Individual Development Accounts for the benefit of low- or moderate-income individuals;
- Providing electronic benefits transfer and point of sale terminal systems to improve access to financial services, or decrease costs for low- or moderate-income individuals;

- Providing other financial services with the primary purpose of community development, such as low-cost bank accounts or free government check cashing for low- or moderate-income individuals; and

- Providing technical assistance to community development organizations by:

  — Serving on a loan review committee;
  — Developing loan application and underwriting standards;
  — Developing loan processing systems;
  — Developing secondary market vehicles or programs;
  — Assisting in marketing financial services, including development of advertising and promotions, publications, workshops and conferences;
  — Furnishing financial services training for staff and management;
  — Contributing accounting/bookkeeping services; and
  — Assisting in fund raising, including soliciting investments.

Providing community development services can greatly enhance an institution's ability to originate loans in low- and moderate-income areas of its communities, and can be viewed as a form of marketing. Working closely with community development organizations, small businesses and low- and moderate-income consumers can improve an institution's understanding of community development goals and objectives and the types of financial products and services needed in lower-income communities. It also often places an institution in a preferred position when an organization being assisted is seeking to take out or place a loan.

Appendix B:
The Community Reinvestment Act Regulatory Evaluation Process

The following summary of CRA regulations is provided for general information. Institutions and others should rely on the regulations and the Interagency Questions and Answers for definitive guidance on CRA issues.

In 1977, Congress enacted the Community Reinvestment Act to encourage banks and thrifts to help meet the credit needs of their entire communities, including low- and moderate- income neighborhoods, consistent with safe and sound lending practices. In May 1995, the banking regulatory agencies amended the regulations implementing CRA to focus the evaluation of an institution's record on performance, not process. Regulations applicable to thrifts are codified at 12 C.F.R. Part 563e. In addition, the Federal Financial Institutions Examination Council (FFIEC) has published Interagency Questions and Answers Regarding Community Reinvestment that contain staff guidance on, and interpretation of, the regulations. The most recent version at the time of publication is contained in 62 Federal Register 52105 et seq. (October 6, 1997). These Questions and Answers will be supplemented from time to time. Check with your agency CRA contact or consult the OTS or FFIEC Websites for updates.[70] The interagency examination procedures for CRA are contained in the OTS Regulatory Handbook: Compliance Activities.

The evaluation process used by the banking regulatory agencies to assess CRA performance is based not on the efforts of financial institutions, but on the results they achieve in the form of loans, investments and other banking services provided in their communities.

Although the evaluation criteria are somewhat different for large and small banks and thrifts, and for wholesale and special purpose institutions, the evaluation processes for all institutions reflect one common concern: the institution's record of performance in helping meet the credit needs of its identified community or communities, with special emphasis on low- and moderate-income persons and areas, small businesses, and small farms.[71]

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70 Websites: http://www.ots.treas.gov; http://www.ffiec.gov.

71 Evidence of discriminatory or other illegal credit practices will adversely affect an evaluation of a thrift's performance and its overall assigned rating. The extent of the adverse effect will depend on the nature and extent of the evidence, actions taken by the thrift to prevent discrimination, and any corrective action voluntarily taken or promised.

Large Retail Institutions

Large retail institutions, those with assets greater than $250 million or affiliates of holding companies with $1 billion or more in assets, are evaluated under three key tests: a lending test; an investment test; and a service test. These tests measure the nature and extent of an institution's (1) lending -- particularly home mortgage, small business, small farm, and community development loans; (2) qualified investments; and (3) retail banking services that are provided in the institution's assessment area(s).

The Lending Test

Since the genesis of CRA was concern about whether institutions were providing credit throughout their communities, without arbitrarily excluding low- and moderate-income areas, the nature and extent of an institution's lending are the primary measures of CRA performance under the current regulations. A "lending test" is used to determine how well a larger retail institution is helping to provide credit within its assessment area(s).

Under the lending test, the number, dollar amounts, and the geographic distribution of loans, as well as the characteristics of borrowers, for home mortgage, small business, small farm loans and loan purchases in the institution's assessment area(s) are measured and considered. In addition, the origination and purchase of loans that have a community development purpose, as defined by the regulation, is also considered, along with the extent to which the institution uses innovative or flexible lending practices to help meet the credit needs of low- and moderate-income persons or areas. The supervisory agencies will consider consumer lending under the lending test if consumer loans, such as auto loans, credit card, home equity and other secured and unsecured loans, represent a substantial majority of an institution's business, or if the institution requests that these loans be counted. More specifically, the criteria considered by the supervisory agencies are:

Overall Lending Activity. Large banks and thrifts are evaluated on both the number and dollar amounts of loans made or purchased in their assessment area(s). Generally, agencies assess the number and amount of home mortgage loans, small business loans and small farm loans. Certain consumer loans are counted if they represent a substantial portion of an institution's business, or if the institution requests they be counted and keeps the necessary records.

Geographic Distribution of Loans. Key factors that indicate how well an institution is helping to meet credit needs are reflected by the proportion of its lending in its assessment area, and the extent to which its loans are dispersed geographically throughout the assessment area. This evaluation focuses on the number and dollar amounts of loans in low- , moderate- , middle- , and upper income geographies.

Distribution of Loans Based on Borrower Characteristics. In addition to geographic dispersion, the distribution of loans among types of borrowers is measured. This includes a review of: the number and amount of mortgage loans to borrowers of various income levels; the number and amount of loans to small businesses and small farms (revenues of $1 million or less); the number and amount of loans to small businesses and small farms by size of loan; and if applicable, the number and amount of consumer loans by all income levels of borrowers. When an institution adequately addresses the needs of borrowers in its assessment area(s), favorable consideration will be given for loans to low- and moderate-income persons and/or to small businesses and farms outside their assessment area(s).

Community Development Lending. The number and amount of community development loans, and their complexity and level of innovation is measured. Community development loans are those that have as their primary purpose community development, which includes: affordable housing; community services targeted to low- or moderate-income individuals; small business and small farm loans that promote economic development; and activities that help revitalize or stabilize low- and moderate-income geographies. Community development loans must benefit the institution's assessment area or a broader statewide or regional area that includes the assessment area.

Innovative/Flexible Lending Practices. Regulators also assess the institution's use of innovative or flexible lending practices, which should be employed in a safe and sound manner, to address the needs of low and moderate-income individuals or geographies. Such practices may include use of financing techniques not previously used by the institution or use of flexible underwriting standards to provide credit to low- and moderate-income consumers.

Optional Consideration of Affiliate Lending. At an institution's option, the CRA assessment can include loans made or purchased by affiliates. If an institution exercises this option it must provide the same types of data on affiliate loans as is required for loans made directly by the institution itself.

Optional Consideration of Consortia and Third-Party Lending. At an institution's option, community development loans made through consortia in which an institution participates will be considered under the lending test, if data on such loans are reported as required by CRA regulations. Participants may allocate loans among consortia members in any reasonable way, as long as no two members claim the same loan or part of a loan for CRA evaluation purposes.

Investment Test

A second key measure of a large institution's CRA performance is the degree to which it supports its local communities through various types of investments that financial institutions can make for community development purposes. Lenders, community representatives and the banking regulatory agencies have long recognized that investments by financial institutions can be an important form of support for the continuing development, revitalization and stabilization of local community and neighborhood economies.

Qualified Investments. In recognition of the importance of financial institution investments to the economic health of communities and neighborhoods, the banking regulatory agencies use an "investment test" to evaluate the degree to which an institution helps meet the credit needs of its assessment area(s) through "qualified investments." As with community development lending, investments are "qualified" if they have as their primary purpose community development as defined by regulation. Examples of qualified investments include investments, deposits or shares in or grants to:

- Financial intermediaries (including CDFIs, CDCs, minority- and women-owned financial institutions, community loan funds, and low-income or community development credit unions) that primarily lend or facilitate lending in low- and moderate-income areas or to low- and moderate-income individuals in order to promote community development, such as a CDFI that promotes economic development on an Indian reservation;

- Organizations engaged in affordable housing rehabilitation and construction, including multi-family rental housing;

- Organizations, including, for example, Small Business Investment Companies (SBICs) and specialized SBICs, that promote economic development by financing small businesses;

- Facilities that promote community development in low- and moderate-income areas for low- and moderate-income individuals, such as youth programs, homeless centers, soup kitchens, health care facilities, battered women's centers, and alcohol and drug recovery centers;

- Projects eligible for low-income housing tax credits;

- State and municipal obligations, such as revenue bonds, that specifically support affordable housing or other community development;

- Not for profit organizations serving low- and moderate-income housing or other community development needs, such as counseling for credit, homeownership, home maintenance, and other financial services education; and

- Organizations supporting activities essential to the capacity of low- and moderate-income individuals or geographies to utilize credit or to sustain economic development, such as, for example, day care operations and job training programs that enable people to work.

To be considered, investments must benefit the institution's assessment area(s), or a broader statewide or regional geographic area that includes the institution's assessment area(s). At an institution's option, its investment performance can include consideration of qualified investments made by affiliates, provided that the investments are not claimed by any other institution. Investments are not eliminated from consideration because an institution receives other benefits (e.g., tax credits) for them.

Specific performance criteria used by the supervisory agencies to measure an institution's performance under the investment test include:

Level of Investment Activity. The dollar amount of qualified investments is measured. Greater weight is given to qualified investments that are not routinely provided by private investors.

Innovation and Complexity. The level of innovation and complexity of an institution's qualified investments and the extent of their relationship to credit needs is also assessed. The supervisory agencies recognize that investments for community development activities may require considerably more work and attention than do other investments. Such investments are often coordinated with a variety of public and private resources, and may be used in a host of creative ways to help produce safe and sound loans for borrowers or projects that might not otherwise qualify for financing.

Responsiveness to Needs. Investment performance is also evaluated for its overall responsiveness to credit and community economic development needs in the institution's assessment area.

Service Test

The service test evaluates an institution's overall record of helping meet its assessment area's needs by considering two key components: retail banking services and community development services.

Retail Banking Service Delivery System. The availability and responsiveness of the institution's retail banking delivery systems, such as branches and ATMs, can have a significant impact on an institution's capacity to help meet community credit needs, especially in low- and moderate-income areas. An institution's record in providing retail banking services is reviewed, using the following criteria:

- **Branch Distribution.** Regulatory agencies assess the current distribution of branches and ATMs among low-, moderate-, middle-, and upper-income geographies.
- **Branch Disposition.** The institution's record of opening and closing branches and ATMs, especially those (a) located in low- and moderate-income geographies, or (b) primarily serving low- and moderate-income individuals is reviewed, taking into consideration the current distribution of the institution's branches and ATMs.
- **Alternative Systems.** Regulatory agencies assess the extent to which the institution uses alternative retail banking service delivery systems (such as mobile branches, loan production offices, banking by telephone, etc.) for low- and moderate-income geographies or individuals, and how effective these alternative systems are.
- **Range of Targeted Services.** An important part of the assessment of retail banking services is the comprehensiveness of services being provided for geographical areas representing various income levels and the degree to which services are tailored to meet the needs of those geographies.

Community Development Services. The nature and extent of community development services provided by the institution, and their degree of innovation, is assessed. Community development service has as its primary purpose community development and is related to the provision of financial services. Community development services are evaluated in the context of the characteristics and needs of the institution's assessment area, the institution's capacity and constraints, and the availability of community development program opportunities in the assessment area. At an institution's option, its performance also can include consideration of an affiliate's community development services, if the services are not claimed by any other institution. (See Appendix A).

Smaller Financial Institutions

To reduce regulatory burden, and fairly consider differences in the capacity and resources of smaller banks and thrifts, the agencies have adopted a streamlined examination process for smaller institutions. Smaller institutions are banks and thrifts that, during either of the prior two calendar years, have assets of less than $250 million, and are independent or part of a holding company with total bank or thrift assets of less than $1 billion. Although any smaller bank or thrift may choose to be evaluated under the standards established for larger institutions, it must agree to collect and report required data.

Under the stream lined examination, agencies examine small institutions using the following criteria and rating standards:

Loan-to-Deposit Ratio. If the institution's loan-to-deposit ratio, adjusted for seasonal variations, and other lending-related activities (such as originations for sale to secondary markets) is reasonable in the context of the institution's size and financial condition, and the credit needs of its assessment area, it will be deemed satisfactory.

Proportion in Assessment Area. Where a majority of the institution's loans and, as appropriate, other lending related activities are in its assessment area(s), a satisfactory rating on this factor is indicated. "Other lending related activities" include community development loans and lending-related qualified investments.

Borrower Distribution of Loans. The institution's record of lending to (and engaging in other lending-related activities benefiting) borrowers of different income levels, and businesses and farms of different sizes is reviewed. If the institution has a reasonable lending record to borrowers of different types and classes, considering the economic and demographic make-up of its assessment area, it will be rated satisfactory.

Geographic Distribution. A satisfactory rating on this factor is indicated where the institution's geographic dispersion of loans (and lending related activities), within its assessment area, is reasonable.

Response to CRA Complaints. The institution's record of taking appropriate action on written complaints about its CRA performance will be considered, and if the institution's response overall has been appropriate, it will receive a satisfactory rating on this factor.

Enhanced Performance Through Investments and Services. Additionally, the agencies will consider a smaller institution's use of the same types of qualified investments and services that provide a basis for evaluating larger institutions. A good record in providing qualified investments, and retail and community development services can help increase a smaller institution's satisfactory rating to the outstanding level.

Wholesale and Limited Purpose Institutions

Community Development Test. The Community Development test applies only to wholesale or limited purpose banks and thrifts, and focuses on their record in helping meet the credit needs of their service area(s) through (1) qualified investments, (2) community development lending, or (3) community development services. At an institution's option, its community development performance can include consideration of those qualified investments or community development services of affiliates, provided that these investments or services are not claimed by any other institution.

Assessment criteria include the number and amount of community development loans, including loans purchased; qualified investments (as defined under the investment test); community devel-

opment services; the degree of innovation or complexity of qualified investments, community development loans and/or community development services; and the institution's overall responsiveness to credit and community economic development needs.

Assessment Area Benefits. The community development loans, qualified investments and community development services of wholesale or limited purpose institutions will be considered relevant to performance if they provide benefits inside the institution's assessment area(s), or a broader statewide or regional area that includes the institution's assessment area.

Similar investments, services and loans provided outside of the institution's assessment area also will be considered, but only if the institution has adequately addressed the needs of its assessment area.

APPENDIX C:
Qualified Thrift Lender Test

This is a general overview of the Qualified Thrift Lender Test. For more detailed information, refer to 12 U.S.C. § 1467a(m), § 270 of the Thrift Activities Handbook, or Regulatory Bulletin 32-9 (dated 1/28/99).

To be a Qualified Thrift Lender (QTL), a thrift institution must either meet the Home Owners' Loan Act (HOLA) QTL test or the Internal Revenue Service (IRS) tax code Domestic Building and Loan Association (DBLA) test.[72] Under the QTL test, a thrift institution must hold Qualified Thrift Investments (QTI) equal to at least 65 percent of its portfolio assets. The ratio of an institution's QTI (numerator) divided by its portfolio assets (denominator) is the institution's actual thrift investment percentage (ATIP). Portfolio assets are total assets minus goodwill and other intangible assets, office property, and liquid assets not exceeding 20 percent of total assets. A thrift institution ceases to be a QTL when its ATIP falls, at month end, below 65 percent for four months within any 12-month period.

QTI fall into one of two categories: assets includable without limit, or assets limited to 20 percent of portfolio assets. Assets includable without limit count in full as QTI. The 20 percent of portfolio assets limit applies to the aggregate amount of assets in the category, not to the amount of each type of asset in the category.

<u>Assets includable as QTI without limit consist of:</u>

- Loans (including qualifying real estate owned as a result of such loans) to purchase, refinance, construct, improve, or repair domestic[73] residential or manufactured housing;
- Home equity loans;
- Educational loans;
- Small business loans;
- Loans made through credit cards or credit card accounts;
- Securities backed by or representing an interest in mortgages on domestic residential or manufactured housing;
- Federal Home Loan Bank stock;

[72] For information on the Domestic Building and Loan Association Test, refer to 26 U.S.C. § 7701(a)(19).

[73] "Domestic" refers to housing located within the 50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and the Pacific Islands.

- Obligations of the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, Resolution Trust Corporation, and the Federal Savings and Loan Insurance Corporation Resolution fund (depending on the date of the issue of such obligations).

Assets includable as QTI up to 20 percent of portfolio assets consist of:

- 50 percent of the amount of domestic[74] residential housing mortgage loans originated and sold within 90 days. A thrift may on a consistent basis include as QTI either the sales amounts from a previous quarter or the previous rolling 90 days or three-month period.
- Investments in a service corporation that derives at least 80 percent of its gross revenues from activities related to domestic or manufactured residential housing.
- 200 percent of the amount of loans and investments in "starter homes."
- 200 percent of the amount of investments in "credit-needy areas."
- Loans for the purchase, construction, development, or improvements of "community service facilities" not in credit-needy areas. Community service facilities include churches and other places of worship, schools, nursing homes, hospitals and other similar facilities.
- Loans for personal, family, or household purchases (other than those reported in the assets includable without limit category).
- Fannie Mae and Federal Home Loan Mortgage Corporation stock.

Definition of a credit-needy area:[75]

A credit-needy area is a geographic area or neighborhood in which the credit needs of the low- and moderate-income residents are not being adequately met. This includes any census tract or block numbering area delineated by the United States Bureau of the Census where median income is less than 80 percent of the area median income. Area median income means the median family income for a Metropolitan Statistical Area (MSA), or the statewide non-metropolitan area if located outside an MSA.

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[74] Ibid.

[75] For definitions of other terms such as residential housing or starter homes, refer to Regulatory Bulletin 32-5 or § 270 of the Thrift Activities Handbook.

A credit-needy area may also be an area that is:

- targeted for redevelopment by a federal, state, tribal or local government that also receives some form of financial assistance from the federal, state, tribal or local government;
- identified as credit-needy through consultations with local government and community representatives. These determinations will be subject to review for reasonableness during examinations.

In addition, if the loan is for a small business or a "community service facility" the association may classify it as a loan to a credit-needy area if it meets one of the following criteria:

- the loan is to a community service facility or a small business within the credit-needy area;
- the loan is to a small business owned by an individual whose home address is within the credit-needy area;
- the loan is to a community service facility that primarily serves individuals whose homes are within the credit-needy area.

For example, under the first criterion, a loan to a community center, school, or small business in a credit-needy area would qualify. Under the second, a small business loan to a person living in a credit-needy area but whose business is not within such an area would qualify. Finally, under the third criterion, loans to hospitals, churches or school dormitories that have clientele, the majority of who live in credit-needy areas, would qualify.

APPENDIX D:
Capital Treatment

The following is a chart summarizing the treatment of some assets under risk-weighting requirements:[76]

Asset Category	*Risk-Weighting*
Home (residential) loans	
◆ qualifying mortgage loans[77]	50%
◆ qualifying multifamily mortgage loans[78]	50%
◆ qualifying residential construction loans[79]	50%
◆ all other home loans	100%
Home equity loans	100%
Consumer loans	100%
Commercial loans, including small business loans	100%
Nonresidential construction loans and land loans[80]	100%
Nonresidential real property loans	100%
Portion of assets unconditionally guaranteed by U.S. govt. or its agencies (not govt. instrumentalities) (i.e., backed by full faith and credit of the U.S.)	0%
Portion of assets guaranteed by U.S. govt.-sponsored agencies or collateralized by current market value securities issued by govt.-sponsored agencies	20%

[76] For more information, see 12 C.F.R. § 567.6.

[77] Qualifying mortgage loans are defined as 1-4 family residential mortgage loans that: (i) are prudently underwritten; (ii) are performing; (iii) are no more than 90 days past due; and (iv) have a loan-to-value (LTV) ratio not exceeding 80% of origination. Loans not satisfying the LTV ratio requirement may nevertheless be deemed qualifying mortgage loans provided they are insured to at least an 80% LTV ratio by a private mortgage insurance company approved by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association. 12 C.F.R. § 567.1.

[78] Qualifying multifamily mortgage loans are defined as loans secured by first liens on multifamily residential properties consisting of 5 or more dwelling units and satisfying certain criteria including that the loans: (i) have LTV ratios not exceeding 80% (75% for variable rate loans); (ii) have debt service ratios of 120% (115% for variable rate loans); (iii) are performing and no more than 90 days past due; and (iv) produced timely payments of principal and interest for the year preceding placement in the 50% risk-weight category. 12 C.F.R. § 567.1.

[79] Qualifying residential construction loans are residential construction loans for 1-4 family homes that meet twelve criteria set forth at 12 C.F.R. § 567.1.

[80] Portions of land loans and nonresidential construction loans exceeding an 80% LTV must be deducted from total capital. 12 C.F.R. § 567.5 (c)(2)(iii).

High-quality mortgage-related securities[81]	20%
Non-high quality securities backed by or representing an interest in qualifying mortgages loans and qualifying multifamily mortgages[82]	50%
Corporate debt securities	100%
Pools of assets[83]	100%
Equity investments	(See discussion below)

Investments in Subordinate Organizations. For capital purposes, thrifts' investments in subordinate organizations are divided into investments in includable subsidiaries, nonincludable subsidiaries, and equity investments. Includable subsidiaries are GAAP-consolidated entities[84] (corporations, partnerships, business trusts, joint ventures, institutions or similar organizations) that are engaged in activities permissible for a national bank.[85] Nonincludable subsidiaries are GAAP-consolidated entities engaged in activities that are not permissible for national banks (e.g., certain real estate activities). By definition, the assets of includable subsidiaries would be consolidated with those of the parent thrift for capital purposes. Investments in, and loans to, nonincludable subsidiaries must be deducted from core and tangible capital.[86]

[81] This includes securities issued by, or fully guaranteed by Fannie Mae or the Federal Home Loan Mortgage Corporation, other eligible mortgage-related securities under the Secondary Mortgage Market Enhancement Act (SMMEA), as defined in the Securities Exchange Act of 1934, codified as 15 U.S.C. § 78c(a)(41), and mortgage-backed bonds rated in the top two investment grade ratings (by a nationally recognized rating service) and that meet other qualifications. 12 C.F.R. § 567.1. Excluded from this category are collateralized mortgage obligation residual classes. 12 C.F.R. § 567.6(a)(1)(ii)(H).

[82] Excluded from this category are collateralized mortgage obligation residual classes. If the security is backed by qualifying multifamily mortgage loans, the institution must receive timely payments of principal and interest in accordance with the terms of the security. Payments will generally be considered timely if they are not 30 days or more past due. 12 C.F.R. § 567.6(a)(1)(iii)(C).

[83] Indirect interests in pools of assets are assigned the risk-weight category of the underlying assets, but no less than a 20% risk-weight. 12 C.F.R. § 567.6(1)(vi)(A) and (C)(2). Subject to a narrow exception (12 C.F.R. § 567.6(1)(v)(C)), if the pool contains different risk-weighted assets then all assets will be assigned the category of the asset with the highest risk-weight, except that if it contains assets that must be deducted, all will be deducted. 12 C.F.R. § 567.6(1)(vi)(B).

[84] GAAP-consolidated means an entity whose assets are consolidated with the parent thrift on a line by line basis in accordance with Generally Accepted Accounting Principles. In general, these are majority-owned entities.

[85] The term "includable subsidiary" also includes any entity consolidated with the thrift that is engaged in activities not permissible for a national bank, but only if acting solely as agent for its customers and such agency position is clearly documented in the savings institution's files; engaged solely in mortgage-banking activities; or certain insured grand-fathered depository institutions or state savings banks. 12 C.F.R. § 567.1.

[86] 12 C.F.R. § § 567.9(c)(2) and 567.5(a)(2)(v). The amount includable for investments made before April 12, 1989 was gradually phased out; so that after June 30, 1996, no amount of these investments could be included. 12 U.S.C. § 1464(t)(5).

Equity investments in unconsolidated entities would be included in capital, in the 100% risk-weight category, if they are equity investments of the type permissible for national banks; and deducted from total capital if they are not permissible for national banks.

Equity Investments in Real Estate. Generally equity investments in real estate must be deducted from total capital for risk-based capital purposes. An exception applies to real estate activities permissible for national banks. Under 12 C.F.R. § 24.3, national banks may make certain community-development related real estate investments (see below). If the real estate investments are of the type permissible for national banks as described in 12 C.F.R. § 24.3(a) , then thrifts could include them in capital. They would be risk-weighted at 100%.

Community Development Related Investments Permissible for National Banks. Under Part 24, national banks are permitted to make investments that primarily benefit low- and moderate-income individuals, low and moderate-income areas, and other areas targeted for redevelopment by local, state, tribal, or federal governments (including federal enterprise communities and federal empowerment zones) by providing or supporting one or more of the following activities:[87]

1. Affordable housing, community services, or permanent jobs for low- and moderate-income individuals;
2. Equity or debt financing for small businesses;
3. Area revitalization or stabilization; or
4. Other activities, services, or facilities that primarily promote the public welfare.

Such activities would include:

- Investments in an entity that finances, acquires, develops, rehabilitates, manages, sells, or rents housing primarily for low- and moderate-income individuals;

- Investments that finance small businesses (including equity or debt financing and investments in an entity that provides loan guarantees) that are located in low- and moderate-income areas or that produce or retain permanent jobs, the majority of which are held by low- and moderate-income individuals;

- Investments that provide credit counseling, job training, community development research, and similar technical assistance services for non-profit community development organizations, low- and moderate-income individuals or areas, or small businesses located in low- and moderate-income areas, or that produce or retain permanent jobs, the majority of which are held by low- and moderate-income individuals;

[87] 12 C.F.R. § 24.3(a).

- Investments in an entity that acquires, develops, rehabilitates, manages, sells, or rents commercial or industrial property that is located in a low- and moderate-income area and occupied primarily by small businesses, or that is occupied primarily by small businesses that produce or retain permanent jobs, the majority of which are held by low- and moderate-income individuals;
- Investments as a limited partner, or as a partner in an entity that is itself a limited partner, in a project with a general partner that is, or is primarily owned and operated by, a 26 U.S.C. 501(c)(3) or (4) non-profit corporation and that qualifies for the federal low-income housing tax credit;
- Investments in low- and moderate-income areas that produce or retain permanent jobs, the majority of which are held by low- and moderate-income individuals;
- Investments of a type approved by the Federal Reserve Board under 12 C.F.R. § 206.21 for state member banks that are consistent with the requirements of § 24.3.[88]

[88] 12 C.F.R. § 24.6.

APPENDIX E:
Office Of Thrift Supervision Contacts

If you have any questions concerning the information contained in this guide or would like additional information on authorized community development activities, you may contact Deborah Dakin, Deputy Chief Counsel, in the Regulations and Legislation division of the Chief Counsel's office at (202) 906-6445; Debra Merkle, Supervision Policy Project Manager, at (202) 906-5688; Sherri Stieg, Senior Attorney, at (415) 616-1516; Sonja White, National Community Affairs Coordinator, at (202) 906-7857; or the Community Affairs Liaison in the OTS office located in your region:

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