

# CONSUMER COMPLIANCE OUTLOOK®

FOURTH QUARTER 2014  
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A FEDERAL RESERVE SYSTEM PUBLICATION WITH A FOCUS ON CONSUMER COMPLIANCE ISSUES



Smartphone interactive scan

## TRANSITIONING FROM AN INTERMEDIATE SMALL BANK TO A LARGE BANK UNDER THE COMMUNITY REINVESTMENT ACT

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FEDERAL RESERVE BANK OF RICHMOND

A bank's transition under the Community Reinvestment Act (CRA) from an intermediate small bank (ISB) to a large bank may seem challenging at the onset because of differences between the large and ISB evaluation standards. For example, a large bank must begin collecting and reporting data for small business, small farm, and community development loans<sup>1</sup> in the year in which it meets the CRA definition of large bank. The following year, it will be subject to the large bank CRA examination procedures, which include separate tests for lending, investments, and services. To help facilitate the transition, this article discusses ways for an ISB to anticipate the changes, develop an appropriate strategy, and enlist the aid of personnel across the institution to ensure a successful transition to the large bank examination procedures.

### TRANSITIONING TO A LARGE BANK UNDER CRA

An institution is no longer considered an ISB when its assets equal or exceed the upper asset size threshold for small banks (which includes ISBs), as of December 31 for both of the prior two years.<sup>2</sup> The small bank threshold equals \$1.202 billion for 2014 and is adjusted annually.<sup>3</sup>

When an institution transitions from an ISB, it must immediately begin collecting loan data that will be reported in the following calendar year, consistent with standards provided for in Section 42 of Regulation BB and detailed later in this article. The institution will not be subject to the large

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<sup>1</sup> A large bank has assets above the small bank threshold as of December 31 of both of the prior two years. For example, an institution with total assets equal to at least \$1.202 billion as of December 31, 2012, and December 31, 2013, would be considered a large bank in 2014.

<sup>2</sup> Regulation BB, 12 C.F.R. §228.12(u). Regulation BB is the Federal Reserve Board's CRA implementing regulation for the institutions it supervises. The FDIC and the OCC have CRA implementing regulations that are substantially similar to Regulation BB for the institutions they supervise. See 12 C.F.R. part 25 (national banks), 12 C.F.R. part 195 (federally chartered savings and loan associations), 12 C.F.R. part 345 (state-chartered nonmember banks), and 12 C.F.R. part 195 (state-chartered savings and loan associations). For convenience, this article refers to citations in Regulation BB, 12 C.F.R. part 228, but the cited sections of Regulation BB have identical counterparts in the other agencies' CRA regulations.

<sup>3</sup> A list of current and past asset size thresholds can be found at <http://www.ffiec.gov/cra/examinations.htm#threshold>.

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# MANAGING COMPLIANCE RISK THROUGH CONSUMER COMPLIANCE RISK ASSESSMENTS

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Financial institutions face a variety of compliance risks every day, ranging from the risks associated with new products and services to the risks of operational failures involving existing products and services. It is therefore critical that institutions identify, measure, monitor, and manage the consumer compliance risks associated with their products, services, and business lines. A consumer compliance risk assessment (risk assessment) is an excellent tool to help accomplish these tasks. It generally involves identifying the current and future risks for an institution's structure and business activities and then evaluating the institution's procedures to control and mitigate these risks.

This article discusses the risk assessment process that the Federal Reserve Board (Board) outlined in its new Community Bank Risk-Focused Consumer Compliance Supervision Program (RFS Program),<sup>1</sup> which was implemented in January 2014.<sup>2</sup> The process outlined in the RFS Program illustrates one approach institutions can use to conduct risk assessments. While institutions have discretion about the way in which they conduct and document a risk assessment, examiners expect an institution to conduct an assessment across the organization and to document how effectively those risks are being controlled.

## THE RISK ASSESSMENT PROCESS

The risk assessment process in the RFS Program has three components: identifying inherent risk, evaluating risk management controls, and measuring residual risk. Within an institution, the board of directors may delegate risk assessment responsibilities to bank management, business line staff, compliance personnel, or some combination of each of these groups. To include appropriately broad input, it may be necessary to reach across an institution's different business and operational areas to gather feedback from managers and personnel regarding the controls in place and their efficacy.

The RFS Program includes an example of a risk assessment matrix, which is shown on page 3. Examiners use this matrix to document the level of inherent risk, risk controls, and residual risk for the business lines, products,

<sup>1</sup> The Community Bank Risk-Focused Consumer Compliance Supervision Program can be accessed at [http://www.federalreserve.gov/bankinfo/reg/caletters/Attachment\\_\\_CA\\_13-19\\_\\_Risk-Focused\\_Supervision\\_Program\\_Document.pdf](http://www.federalreserve.gov/bankinfo/reg/caletters/Attachment__CA_13-19__Risk-Focused_Supervision_Program_Document.pdf).

<sup>2</sup> For further information regarding the RFS Program, refer to Jeffrey Drum, "Risk-Focused Consumer Compliance Supervision Program for Community Banks" (Second Quarter 2014 *Outlook*), available at <https://consumercomplianceoutlook.org/2014/second-quarter/risk-focused-consumer-compliance-supervision-program-for-community-banks/>.

and services offered by the institution. The focus is on the institution’s material products. Product materiality considers the relative importance of a product to an institution compared with the institution’s other product offerings.

**Inherent Risk**

Inherent risk considers the likelihood and impact of noncompliance with all applicable consumer laws and regulations prior to considering any mitigating effects of risk management processes.<sup>3</sup> As discussed below, institutional, environmental, and legal and regulatory factors should be considered when determining inherent risk levels:

- Institutional factors include the institution’s organizational structure, business model and strategies, compliance management structure and personnel, and supervisory history. Changes in business activity, product complexity, growth, vendor management, product volume, and historical trends should also be included. Assessments should consider institutional factors that tend to increase the level of consumer compliance risk, such as complex products, decentralized operations, or third-party relationships. In addition, institutions that offer an extensive branch network or multiple or nontraditional delivery channels

will need to manage a higher level of consumer compliance risk than compared with an institution with limited branching and traditional delivery channels.

- Environmental factors include external circumstances factors that could affect compliance risk, such as local business conditions, competition, and demographics. An institution in a fairly homogeneous, rural market may have lower environmental concerns than institutions in larger markets that exhibit greater diversity of income, ethnicity, and business competition. Inherent risks associated with the Equal Credit Opportunity Act, the Fair Housing Act, and the Community Reinvestment Act are typically greater for institutions in larger, more diverse markets, and require more sophisticated controls to mitigate these risks.
- Legal and regulatory factors include the complexity of the regulations that apply to an institution’s business activities, regulatory changes, and the resulting consumer compliance scrutiny. If an institution fails to comply with consumer protection laws and regulations, or adhere to its own policies, procedures, and standards, it increases compliance risk of legal or regulatory sanctions, financial loss, consumer harm, or damage to reputation or franchise value.

Product	Inherent Risk			Risk Controls				Residual Risk
	Institutional Factors	Legal and Regulatory Factors	Environmental Factors	Board and Management Oversight	Policies, Procedures, and Limits	Risk Monitoring and MIS	Internal Controls	
Material Business Line, Product, or Service								
Material Business Line, Product, or Service								
Material Business Line, Product, or Service								
Aggregate Risk and Risk Control Assessments								
<b>Inherent Risk</b> — Low, Limited, Moderate, Considerable, or High; <b>Risk Control Assessment</b> — Strong, Satisfactory, Fair, Marginal, or Unsatisfactory; <b>Residual Risk</b> — Low, Limited, Moderate, Considerable, or High								

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<sup>3</sup> See Federal Reserve Board, CA Letter 13-19, “Community Bank Risk-Focused Consumer Compliance Supervision Program,” November 18, 2013, available at <http://www.federalreserve.gov/bankinfo/caletters/caltr1319.htm>.

## NEWS FROM WASHINGTON: REGULATORY UPDATES\*

**Consumer Financial Protection Bureau (CFPB) Issues Its Fall 2014 Supervisory Highlights Report.** On October 28, 2014, the CFPB published the latest issue of its *Supervisory Highlights*, which features supervisory observations that the CFPB gleaned from examining banks and nonbanks. Highlights include:

- **Regulation E.** Among several issues cited, one or more institutions received an oral notification from a consumer about an error related to an electronic fund transfer but would not commence an investigation of the error until a written dispute form was received from the consumer, in violation of Regulation E. The CFPB also found that one or more institutions denied a consumer's claim for unauthorized PIN transactions on a stolen card because the consumer could not explain how the PIN was compromised. A consumer's negligence cannot be used as the basis for imposing greater liability than is permissible under the regulation.
- **Student Loan Servicing.** The CFPB found several issues with one or more servicers, including:
  - Unfair payment allocations to maximize late fees
  - Misrepresentations on billing statements about minimum payments
  - Illegal late-fee charges
  - Failure to provide accurate tax information
  - Misrepresentations about discharging student loans in bankruptcy
  - Unfair debt collection calls made to consumers at inconvenient times (in at least one case, on a repeated basis)
- **Mortgage Servicing.** In the first half of 2014, the CFPB began targeted reviews examining for compliance with the new servicing rules. While examiners found that some servicers had implemented policies and procedures reasonably designed to meet the objectives in the rule, other servicers had not. Further, the CFPB found several issues with one or more servicers, including:
  - Failure to have policies and procedures relating to the oversight of service providers
  - Unfair delays in converting trial loan modifications to permanent loan modifications, and associated negative consequences
  - Deceptive practices regarding the terms of loan modifications
- **Fair Credit Reporting Act (FCRA).** One or more consumer reporting agencies were not properly providing notices about their reinvestigations of consumers'

disputes in certain circumstances, as required by Section 611(a)(6) of the FCRA. Further, at least one specialty consumer reporting agency was inconsistently handling disputes received by telephone.

- **Debt Collection.** One or more debt collectors were imposing convenience fees for making a payment on a debit or credit card in states in which the practice is prohibited, and at least one collector was routinely threatening litigation it did not intend to pursue, in violation of the Fair Debt Collection Practices Act. The CFPB also identified unfair practices with respect to debt sales and found at least one instance where faulty training materials resulted in prohibited disclosures to third parties.

The report also summarizes recent public enforcement actions as well as supervision program and other developments. The fall 2014 Supervisory Highlights report is available at [http://files.consumerfinance.gov/f/201410\\_cfpb\\_supervisory-highlights\\_fall-2014.pdf](http://files.consumerfinance.gov/f/201410_cfpb_supervisory-highlights_fall-2014.pdf).

**CFPB Provides a Limited Cure Procedure for Qualified Mortgages (QM) That Exceeds the 3 Percent Points and Fees Limit.** On November 3, 2014, the CFPB issued a final rule to allow lenders, under certain conditions, to cure excess amounts over the QM points and fees limit to maintain a loan's QM status after consummation. Under the CFPB's ability-to- repay and QM rule, mortgages that meet the standards of a QM are presumed to satisfy the ability-to- repay requirement (i.e., that at the time of consummation, the consumer has a reasonable ability to repay the loan). The QM standard requires, among other criteria, that points and fees charged to the consumer generally do not exceed 3 percent of the total loan amount.

Both creditors and secondary market participants expressed concern about originating and purchasing loans that appear to satisfy the QM 3 percent points and fees limit at consummation but, in fact, may not qualify because a fee was inadvertently omitted that would cause the total points and fees charged to exceed the threshold. To address this concern, the final rule provides a limited cure procedure that would allow a creditor or assignee to refund to the borrower any amount exceeding the 3 percent points and fees limit within 210 days of consummation if the creditor originated the loan as a QM and maintained specific policies and procedures for review of loans after consummation. Under the final rule, the CFPB also requires that creditors or assignees pay interest on any excess amount refunded and specifies occurrences that elimi-



nate the ability for a creditor or assignee to cure points and fees overages, such as when a consumer institutes legal action in connection with the loan. This limited points and fees cure provision is effective for transactions consummated on or after November 3, 2014, and sunsets after January 10, 2021.

**CFPB Issues Final Rule Allowing Financial Institutions to Post Annual Disclosure of Privacy Policies Online, If Certain Conditions Are Met.**

On October 28, 2014, the CFPB issued a final rule creating an alternative delivery method for the privacy policy disclosure requirements in Regulation P. The Gramm-Leach-Bliley Act (GLBA) and Regulation P generally require financial institutions to send annual notices to their customers about their privacy policies. Typically, these notices have been mailed to consumers. Under the final rule, companies may now post their privacy policy online, instead of mail-ing it, if: 1) no opt-out rights are triggered by the financial institution's information-sharing practices under the GLBA or the FCRA, and opt-out notices required by the FCRA have previously been provided, if applicable, or the annual privacy notice is not the only notice provided to satisfy those require-ments; 2) the information included in the privacy notice has not changed since the customer received the previous notice; and 3) the financial institution uses the model form provided in Regulation P as its annual privacy notice.

To use this alternative delivery method, a financial institution must continuously post the annual privacy notice in a clear and conspicuous manner, without requiring a login or similar steps or agreement to any conditions to access the notice. A financial institution must also mail annual notices to customers who request them by telephone within 10 days of the request. A financial institution must inform consumers at least once a year that the policy is available online, that the institution will mail the notice to consumers upon request, and that the notice has not changed. A financial institution may provide this information in a regular communication with the consumer, such as a monthly billing statement.

**Agencies Seek Comment on Proposed Changes to Their Community Reinvestment Act (CRA) Interagency Questions and Answers.**

On September 10, 2014, the Federal Reserve Board (Board), Federal Deposit Insurance Corporation (FDIC), and the Office of Comptroller of the Currency (OCC) requested comment on proposed revisions to the "Interagency Questions and Answers Regarding Community Reinvestment."

The questions and answers provide additional guidance to financial institutions and the public on the agencies' regulations that implement the CRA. The proposed new and revised questions and answers:

- address alternative systems for delivering retail banking services;
- add examples of innovative or flexible lending practices;
- address community development-related issues, including guidance on economic development, examples of community development loans and activities that are considered to revitalize or stabilize an underserved nonmetropolitan middle-income geography, and an explanation of how community development services are evaluated; and
- offer guidance on how examiners evaluate the responsiveness and innovativeness of an institution's loans, qualified investments, and community development services.

The comment period closed on November 10, 2014.

**Agencies Issue Guidance on Unfair or Deceptive Credit Practices.**

On August 22, 2014, the Board, CFPB, FDIC, National Credit Union Administration (NCUA), and OCC issued Interagency guidance that addresses certain unfair or deceptive credit practices that had been prohibited by the "credit practices rules" of the Board, NCUA, and former Office of Thrift Supervision but were nullified by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The guidance clarifies that the repeal of the credit practices rules applicable to banks, savings associations, and federal credit unions is not a determination that the prohibited practices contained in those rules are permissible. Rather, the practices described in the former credit practices rules could potentially violate the prohibition against unfair or deceptive practices under the Federal Trade Commission Act and the Dodd-Frank Act, even in the absence of a specific regulation governing the conduct. The Board also clarified in CA Letter 14-5 that its 2004 guidance "Unfair or Deceptive Acts or Practices by State-Chartered Banks," which was transmitted with CA Letter 04-2, remains in effect. Concurrent with the publication of the Interagency guidance, the Board proposed to repeal its Regulation AA, 12 C.F.R. part 227, which contained the credit practices rules applicable to banks.

\* Links to the announcements are available in the online version of *Outlook* at [www.consumercomplianceoutlook.org](http://www.consumercomplianceoutlook.org).

## ON THE DOCKET: RECENT FEDERAL COURT OPINIONS\*

### FAIR HOUSING ACT (FHA) — 24 C.F.R. PART 100

**U.S. Supreme Court agrees to hear FHA disparate impact case.** *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 135 S.Ct. 46 (2014). The plaintiff community group sued the Texas Department of Housing and Community Affairs, alleging that the defendant agency's allocation of low-income housing tax credits for affordable housing developments violated the FHA. In particular, the plaintiff alleged that the defendant disproportionately approved tax credits for developments in minority census tracts and disproportionately denied tax credits for developments in nonminority census tracts, perpetuating segregated housing patterns. The complaint included claims for both disparate treatment (i.e., intentional discrimination) and disparate impact (i.e., facially neutral practice with discriminatory effect). After a bench trial, the district court denied the disparate treatment claim but ruled in favor of the plaintiff on the disparate impact claim. The Fifth Circuit, 747 F.3d 275 (5th Cir. 2014), reversed and remanded the case back to the lower court in light of a U.S. Department of Housing and Urban Development (HUD) regulation issued after the trial that clarified the burdens of proof for disparate impact claims under the FHA (24 C.F.R. §100.500). The defendant petitioned the Supreme Court to determine: 1) Are disparate impact claims cognizable under the FHA? and 2) If they are cognizable, what are the standards and burdens of proof that should apply? The Supreme Court accepted the first question in the petition.

The Supreme Court agreed twice before to hear cases regarding the disparate impact doctrine in the past two years, but the cases settled prior to oral arguments. The court will hear this case in January 2015.

**U.S. District Court vacates FHA disparate impact regulation.** *American Insurance Association v. U.S. Department of Housing and Urban Development*, 2014 WL 5702711 (D.D.C. November 3, 2014). In February 2013, HUD issued a final rule codifying its long-held position that the FHA provides for disparate impact liability and clarifying the burdens of proof for such claims. See 78 Fed. Reg. 11460 (Feb. 15, 2013); 24 C.F.R. §100.500 ("Liability may be established under the Fair Housing Act based on a practice's discriminatory effect ... even if the practice was not motivated by a discriminatory intent."). The plaintiffs, two homeowners insurance industry trade groups, filed a lawsuit against HUD to invalidate the regulation, and the U.S. District Court for the District of Columbia granted their motion for summary judgment, holding that the agency exceeded its rulemaking authority because the text of the FHA solely prohibits disparate treatment. The district court found that when Congress intended for the disparate impact doctrine to apply to an antidiscrimination statute, it used language focusing on the *effect* of the conduct instead of the conduct itself. In support, the district court cited two federal employment discrimination statutes that contain text that specifically prohibits conduct that adversely affects an employee's status on a prohibited basis. Because the FHA does not contain similar language, the district court held that it does not provide for disparate impact liability. As just noted, the Supreme Court will hear arguments on this issue in an unrelated case in January 2015 in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*

### FAIR CREDIT REPORTING ACT (FCRA)

**The FCRA prohibition against providing electronically printed receipts that include certain credit or debit card information does not apply to receipts sent by e-mail.** *Bormes v. United States*, 759 F.3d 793 (7th Cir. 2014). The Fair and Accurate Credit Transactions Act amended the FCRA to prohibit persons accepting credit or debit cards in transacting their business from including more than the last five digits of the card number or the expiration date on an electronically printed receipt provided to the cardholder at the point of the sale or transaction (15 U.S.C. §1681c(g)(1)). The plaintiff conducted a transaction on the Internet with a federal agency, which e-mailed him a receipt that included both the last four digits of his credit card



number and the expiration date. The plaintiff's suit alleged that the United States violated the statute's prohibition by including both the last four digits *and* the expiration date in the e-mailed receipt. The Seventh Circuit affirmed the lower court's dismissal of the suit, finding that the prohibition solely applies to receipts that are electronically printed and provided to cardholders at the point of sale or transaction.

## REGULATION Z — TRUTH IN LENDING ACT (TILA)

**Creditor for retail installment contract violated the TILA by failing to disclose payment dates.** *Lea v. Buy Direct, L.L.C.*, 755 F.3d 250 (5th Cir. 2014). The plaintiffs entered into a retail installment contract to finance the purchase of a wholesale club membership. The contract required the plaintiffs to make a 10 percent down payment and finance the balance. The contract left the date blank that the payment obligation began and the day of the month on which the installment payments were due because these obligations were triggered by the completion of the down payment requirement, and the date for making the down payment was extended at the plaintiffs' request. After partially paying the down payment, the plaintiffs sought to cancel the membership contract and, seeking statutory damages, filed suit, alleging that the creditor violated the TILA (15 U.S.C. §1638(a)(6); 12 C.F.R. §1026.18(g)) by failing to disclose the starting payment date and subsequent monthly payment due dates. The district court dismissed the case because it determined that the credit transaction had not been consummated since the plaintiffs did not fulfill their contractual down payment requirement. However, on appeal, the Fifth Circuit reversed, holding that "the agreement was consummated when the [plaintiffs] signed the Membership Agreement, Retail Installment Contract, and Payment Agreement and paid the first \$100 of their down payment. That is when their obligations became fixed even though their performance was far from complete." The creditor was obligated under the TILA to disclose, prior to consummation of the transaction, the number of payments, the amount of each payment, and the due dates. Because the creditor failed to disclose this material information, the court held that it violated the TILA and was liable for damages, costs, and attorney's fees.

## REGULATION X — REAL ESTATE SETTLEMENT PROCEDURES ACT (RESPA)

**Second Circuit holds that a servicer does not have to respond to purported Qualified Written Requests (QWRs) that are not mailed to the address designated by the servicer.** *Roth v. CitiMortgage, Inc.*, 756 F.3d 178 (2nd Cir. 2014). The RESPA (12 U.S.C. §2605(e)) and its implementing Regulation X (12 C.F.R. §1024.35) require servicers to acknowledge and respond to borrower QWRs seeking information or asserting servicer errors within certain time frames. The regulation also permits a servicer to designate an address to which QWRs must be sent. The plaintiff defaulted on her mortgage and sent letters requesting information to the servicer, which she requested be treated as QWRs, but did not mail them to the servicer-designated address. The servicer nonetheless responded, noting that the loan was in default, and threatened legal action if the matter was not resolved. The plaintiff then filed suit, individually and on behalf of a class of similarly situated borrowers, alleging that the servicer violated the RESPA by not providing the information requested in her letters and by reporting adverse information to the consumer reporting agencies about disputed payments during the 60-day period after the correspondence was sent, which the RESPA prohibits in connection with QWRs. The lower court dismissed the suit because the purported QWRs were not sent to the servicer's QWR address. On appeal, the Second Circuit affirmed, indicating "[the] letters were not sent to [the servicer's] designated QWR address, and the requests are thus not QWRs under RESPA," citing with approval the Tenth Circuit's decision in *Berneike v. CitiMortgage, Inc.*, 708 F.3d 1141, 1148–49 (10th Cir. 2013), which held that "[f]ailure to send the QWR to the designated address ... does not trigger the servicer's duties under RESPA."

\* Links to the court opinions are available in the online version of *Outlook* at [www.consumercomplianceoutlook.org](http://www.consumercomplianceoutlook.org).

## TRANSITIONING FROM AN INTERMEDIATE SMALL BANK TO A LARGE BANK UNDER THE COMMUNITY REINVESTMENT ACT

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bank examination procedures until one full calendar year after it ceased being an ISB (that is, until it has collected a full year of loan data subject to large bank CRA collection). Anticipating and understanding the requirements of a large bank before becoming one are critical to a successful transition.

### OVERVIEW OF THE ISB EVALUATION PROCESS

Before discussing the standards for evaluating a large bank under CRA, it is helpful to review the ISB standards to highlight the differences. For an ISB, CRA performance is evaluated under the small bank lending and community development tests. The lending test evaluates the bank's loan-to-deposit ratio, the percentage of lending in the bank's assessment areas, the distribution of lending to borrowers with different incomes and revenues, and the distribution of loans in geographies of different income levels. See 12 C.F.R. §228.22(b). The streamlined lending test for small banks also considers an institution's record of taking action in response to written complaints about its performance in helping to meet the credit needs in its assessment area(s). The community development test considers activities that meet the definition of community development as it is discussed in the next section of this article. In particular, the test considers the number and amount of community development loans and qualified investments,<sup>4</sup> the extent of community development services, and the responsiveness through these activities to community development needs. Because both tests are weighted equally, a bank must receive at least a satisfactory rating for both the lending and community development tests to receive an overall satisfactory rating; a less than satisfactory rating for either test will result in an overall less than satisfactory CRA rating.

### COMMUNITY DEVELOPMENT

Community Development is one aspect of the CRA examination that does not change when a bank becomes a large bank. Community development is defined in Regulation BB. See 12 C.F.R. §228.12(g). Additional guidance is included in the Interagency Questions and Answers Regarding Community Reinvestment (Interagency Q&As).<sup>5</sup> The term *community development* includes:

- Affordable housing for low- and moderate-income (LMI) individuals
- Community services targeted to LMI individuals
- Activities that promote economic development by financing small businesses or small farms
- Activities that revitalize or stabilize LMI geographies, designated disaster areas, and distressed or underserved nonmetropolitan middle-income geographies
- Activities that support the Neighborhood Stabilization Program<sup>6</sup>

With limited exceptions, community development loans, qualified investments, and community development services that are considered as community development activities under an ISB CRA evaluation will continue to qualify under a large bank CRA evaluation with two key differences. First, large banks will not have the flexibility to have certain home mortgage, small business, or small farm loans that meet the regulatory definition of *community development* as community development loans.<sup>7</sup> For large banks, these loans will be reported and will be considered under the retail portion of the lending test. Second, community development activities will be evaluated under different performance tests (the

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<sup>4</sup> *Qualified investment* is defined in the regulations to mean a lawful investment, deposit, membership share, or grant that has as its primary purpose community development; 12 C.F.R. §228.22.

<sup>5</sup> See Q&A \_\_.12(g). 75 Fed. Reg. 11642, 11645 (March 11, 2010), available at <http://www.ffiec.gov/cra/qnadoc.htm>. The agencies recently provided supplementary Q&As that discuss, among other things, "Community Development Lending in the Lending Test Applicable to Large Institutions." See Supplementary Interagency Q&A \_\_.22(b)(4)-2, 78 Fed. Reg. 69671, 69677 (Nov. 20, 2013).

<sup>6</sup> For additional details on community development and activities that qualify as community development, see §228.12(g) of Regulation BB and the 2010 Interagency Q&As, including Q&A \_\_.12(g) (community development).

<sup>7</sup> 2010 Interagency Q&As §.12(h)—2 and §.12(h)—3



lending, investment, and service tests) instead of being evaluated together under one community development test.

## DATA COLLECTION AND REPORTING FOR LARGE BANKS

One significant new obligation for a bank transitioning from an ISB to a large bank is the requirement under 12 C.F.R. §228.42 to collect information about the small business, small farm, and community development loans it originates or purchases and to report this data annually to its CRA federal regulator. Anticipating the need to collect these loan data will help ensure a smooth transition, including establishing appropriate processes and systems to comply with this requirement. A recommended practice is to begin planning for data collection before the bank exceeds the small bank threshold on December 31 of the two consecutive years because the data collection requirement is effective when a bank crosses the large bank threshold. The Federal Finance Institutions Examination Council provides many resources, including instructional guides and free data entry software, to assist banks with data collection. These resources can be found at [www.ffiec.gov](http://www.ffiec.gov).

As detailed in the CRA regulation and guidance included in the Interagency Q&As, the collection of data for small business loans is limited to loans whose original amounts were \$1 million or less and were reported as either “loans secured by nonfarm or nonresidential real estate” or “commercial and industrial loans” in Part I of the Report of Condition and Income (Call Report).<sup>8</sup> A small farm loan must be reported if the original amount was for \$500,000 or less, and if it was

reported under either “loans to finance agricultural production and other loans to farmers” or “loans secured by farmland” in Part I of the Call Report.<sup>9</sup> The annual revenue of a business or farm does not affect the small business or small farm classification.

As detailed in the table below, four key pieces of information must be collected for each individual small business or small farm loan.

### Data to be collected for each small business and small farm loan include:

- A unique number or alphanumeric symbol to identify the relevant loan file
- The loan amount at origination
- The loan location (MSA or MD,<sup>10</sup> state, county, and census tract)
- An indicator whether the loan was to a business or farm with gross annual revenues of \$1 million or less<sup>11</sup>

Data must be reported in the aggregate. Specifically, for each geography in which the reporter originated or purchased a small business or small farm loan, the aggregate number and amount of loans in the following categories must be reported:

- with an amount at origination of \$100,000 or less;
- with an amount at origination of more than \$100,000 but less than or equal to \$250,000;
- with an amount at origination of more than \$250,000; and
- to businesses and farms with gross annual revenues of \$1 million or less (using the revenues that the bank considered in making its credit decision).

Data collection is one of the key actions a bank must take during the one-year lag period before it is subject to the large bank examination procedures. When the CRA data are collected for any year, the aggregated CRA data must be reported in the required format by

<sup>8</sup> 12 C.F.R. §228.42(b)

<sup>9</sup> §\_42(a)-4 2010 Interagency Q&A

<sup>10</sup> Metropolitan Statistical Area or Metropolitan Division

<sup>11</sup> 12 C.F.R. §228.26

March 1 of the following year.<sup>12</sup> Examination staff will use small business and small farm loan data when evaluating a bank's performance under the lending test.

In addition to reporting small business and farm loans, large banks must report community development loans. However, this data reporting is more limited because only the aggregate number and aggregate amount of community development loans originated or purchased during the prior year are reported.<sup>13</sup> A bank that elects to have its CRA examiners consider community development loans by a consortium or third party must report the data the bank would have reported had the loans been originated or purchased by the bank.

**FURTHERMORE, A LARGE BANK HAS THE OPTION TO COLLECT AND MAINTAIN (BUT NOT REPORT) CONSUMER LOAN DATA FOR CONSUMER LOANS ORIGINATED OR PURCHASED DURING A CALENDAR YEAR.**

If a large bank is subject to the Home Mortgage Disclosure Act (HMDA) reporting rules, it must report additional mortgage data for CRA purposes. Specifically, the location of each home mortgage loan application, origination, or purchase outside the MSAs in which the bank has a home or branch office (or outside any MSA) must also be reported in accordance with the regulatory requirements. This information must be included in the loan application register. See C.F.R. §1003.4(e).

Furthermore, a large bank has the option to collect and maintain (but not report) consumer loan data for consumer loans originated or purchased during a calendar

year. Categories of consumer loans for which a bank may collect data include motor vehicle, credit card, home equity (if not reported under the HMDA), other secured, and unsecured.<sup>14</sup> Banks may collect information for one or more of the categories, but if a bank chooses to collect data for loans in a certain category, it must collect data for all loans originated or purchased in that category. The consumer loan data to be collected, if a bank chooses to do so, mirrors the data requirements for small business and small farm loan collection: a unique identifier for each loan, loan amount at origination or purchase, loan location, and gross annual income of the consumer that the bank considered in making its credit decision. These data should be provided to examination staff for consideration in the bank's CRA evaluation.

Section 228.22(c) additionally provides that, at a bank's option, loans by an affiliate of the bank will be considered if the bank provides data on the affiliate's loans pursuant to §228.42. A bank that elects to have loans by an affiliate considered shall collect, maintain, and report for those loans the data that the bank would have collected, maintained, and reported had the loans been

originated or purchased by the bank. For home mortgage loans, the bank shall also be prepared to identify the home mortgage loans reported under Regulation C by the affiliate.

In particular, CRA Q&A \_\_\_22(c)(1)—1 provides that an institution may elect to have loans by its affiliate(s) considered. The bank may elect to have all or only certain categories of the following types of loans considered: home mortgage loans, small business loans, small farm loans, community development loans, and the five categories of consumer loans mentioned previously.

<sup>12</sup> 12 C.F.R. §228.42(b)

<sup>13</sup> 12 C.F.R. §228.42(b)(2)

<sup>14</sup> 12 C.F.R. §228.42(c)(1)

Further, Q&A \_\_\_22(c)(2)(i)—1 explains rules that prohibit an affiliate from claiming a loan origination or loan purchase when another institution claims the same loan origination or purchase. Additionally, Q&A \_\_\_22(c)(2)(ii)—1 prohibits “cherry-picking” within any particular category of loans by providing that when an institution elects to have considered loans within a particular lending category made by one or more of the institution’s affiliates in a particular assessment area, all loans made by all of the institution’s affiliates within that lending category in that particular assessment area must be considered.

## LARGE BANK EVALUATIONS

The large bank CRA performance standards include three tests, lending, investment, and service, which are discussed in greater detail below. Unlike the ISB evaluation method, in which the lending and community development tests are weighted equally in determining the institution’s overall CRA rating, the large bank lending test receives greater weight than either the investment or service tests in determining the overall rating. The investment and service tests are weighted equally. The table below shows the weight assigned for each rating under each test.

Component Test Ratings	Points for Lending	Points for Investment	Points for Service
Outstanding	12	6	6
High Satisfactory	9	4	4
Low Satisfactory	6	3	3
Needs to Improve	3	1	1
Substantial Noncompliance	0	0	0

An institution rated outstanding for the lending test will receive an overall rating of at least satisfactory.<sup>15</sup> Alternatively, an institution that receives a rating of less than satisfactory for the lending test will receive an overall rating of less than satisfactory<sup>16</sup> regardless of the ratings of the investment and service tests.

The following table illustrates how the sum of the component test rating scores translates to the assignment of the overall CRA rating.

Composite Rating	Points Needed
Outstanding	20 or more
Satisfactory	11 through 19
Needs to Improve	5 through 10
Substantial Noncompliance	0 through 4

### *Lending Test*

The lending test components for a large bank CRA evaluation differ from those for an ISB evaluation. For a large bank, two ISB lending test factors are eliminated: the loan-to-deposit ratio and the institution’s responsiveness to written complaints about its performance in meeting the credit needs in its assessment area(s). Conversely, two new elements are introduced for the large bank lending test:

- **Lending Activity** — lending activity considers a bank’s responsiveness to credit needs in its assessment area(s), taking into account the number and amount of home mortgage, small business, small farm, and consumer loans, if applicable, in its assessment area(s).
- **Innovative and Flexible Lending Practices** — a bank’s use of innovative and flexible lending practices in a safe and sound manner to address the credit needs of LMI individuals or geographies is a qualitative consideration when assessing the success and effectiveness of the bank’s lending.<sup>17</sup>

However, the most significant difference between the ISB lending test and the large bank lending test involves community development lending. The first change involves qualitative considerations when evaluating community development loans. While the regulatory definition of community development is unchanged, community development loans are no

<sup>15</sup> See 12 C.F.R. §228.28(b)(1) and Interagency Q&A §\_.28(a)—3.

<sup>16</sup> 12 C.F.R. §228.28(b)(3)

<sup>17</sup> 12 C.F.R. §228.22(b)(5)

longer grouped with investments and services under a broad community development test but are considered as a component under the large bank lending test. Community development loans are evaluated based upon the number and dollar amount of such loans as well as their complexity and innovativeness. These last two criteria add additional qualitative dimensions to the evaluation of a large bank's performance and may augment performance under the quantitative criteria of the lending test.<sup>18</sup>

Another significant difference involving community development loans is the removal of the ISB option to treat certain small business, small farm, or mortgage loans as community development loans. As previously discussed, when an ISB does not report mortgage, small business, or small farm loan data, it can choose, on an individual loan basis, to have any of these types of loans that meet the definition of community development treated as community development loans. Upon this election, these loans are considered under the community development test and cannot also be considered under the ISB lending test.

This option is not available to large banks, even when the large bank does not report mortgage loan data. With one exception, loans that would need to be reported under Regulation C, if the large bank were required to collect and report such loans, cannot be treated as community development loans. The only exception is for multifamily housing loans that have a community development purpose. Whether reported or not, such a loan can be considered both a community development loan and a mortgage loan under the large bank lending test. Since large banks must report community development loans, it is critical that such loans be identified both to meet this technical reporting requirement and to ensure such loans are properly evaluated as part of the lending test.

Successfully identifying community development loans will typically require the involvement of loan officers or loan administration personnel because these staff members are often in the best position to identify when a loan meets the definition of community development. Staff training, checklists to establish when

loans have a community development purpose, and strong collaboration between lending staff and bank staff responsible for reporting community development loans can help to ensure such loans are properly identified and reported.

The remaining elements of the lending test for a large bank evaluation are unchanged from the ISB evaluation process and focus on an analysis of the bank's major loan products. Loans reviewed will include small business, small farm, and loans reported under the HMDA although, based upon a bank's distinctive lending profile, other types of loans may be reviewed. Assessment area concentration measures the proportion of loans originated inside the bank's delineated assessment area(s). Additionally, within the bank's assessment area(s), the geographic distribution of lending in geographies of different income levels and the distribution of lending to borrowers with different incomes or revenues continue to be considered under a large bank CRA evaluation. The table on page 13 summarizes the lending test similarities and differences for large banks and ISBs.

#### *Investment Test*

The investment test can present challenges for an ISB transitioning to large bank status. Interagency Q&A \_\_\_26(c)—1 explains that an ISB has the flexibility to allocate its resources among community development loans, qualified investments, and community development services in amounts that it reasonably determines are most responsive to community development needs and opportunities.

Large banks are evaluated under separate lending, investment, and service tests, which include expectations for community activities under each test. It is important for a large institution, or an institution that is approaching large bank status, to recognize the increased regulatory expectations and to plan accordingly. A bank that has not planned properly may discover too late that its level of participation in qualified community development investments is insufficient to achieve a satisfactory rating under the investment test.

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<sup>18</sup> Interagency Q&A §\_.28(b)-1

Qualified investments must benefit one or more of a bank’s assessment areas or a broader statewide or regional area that includes the bank’s assessment area(s).<sup>21</sup> Factors considered under the large bank investment test include:

- dollar amount of community development investments including grants;
- complexity and innovativeness of qualified investments;
- responsiveness of qualified investments to area needs; and
- degree to which qualified investments are not routinely provided by private investors.

All of these elements are considered when reviewing performance. Complexity, innovativeness, and the degree to which qualified investments are not routinely provided by private investors are all factors under the large bank investment test that are not included in the ISB community development test. These specific criteria permit an examiner to qualitatively weight certain investments differently or to make other appropriate distinctions when evaluating an institution’s record of making qualified investments. Banks should consider both quantitative and qualitative factors, in the context of safety and soundness, when weighing their investment choices. Ultimately, the investment test rating measures an institution’s responsiveness to community needs relative to available opportunities.<sup>22</sup>

Many institutions find that assistance from the chief financial officer or investment officer is critical to identify qualified investments or investment opportuni-

Lending Test Component	Large Bank Lending Test <sup>19</sup>	ISB Lending Test <sup>20</sup>
Loan-to-Deposit Ratio	No	Yes
Lending Activity	Yes	No
Assessment Area Concentration	Yes	Yes
Geographic Distribution of Loans	Yes	Yes
Lending Distribution Based upon Borrower Characteristics (Income or Revenue)	Yes	Yes
Community Development Lending	Yes	No – but included in Community Development Test
Innovative or Flexible Lending Practices	Yes	No
Response to Written Complaints About Performance in Meeting the Credit Needs of Assessment Area(s)	No	Yes

ties. Beyond the purchase of a qualified investment, documentation of the community development benefits of the investment is important. Documenting the purpose of the investment, through the prospectus or other relevant documents, the geographic area benefiting from the investment, and any qualitative elements will help both bank staff monitoring CRA performance and examination staff conducting the CRA evaluation.

#### Service Test

The service test for large banks generally does not present transition issues. It has two components: retail services and community development services. While an ISB evaluation considers community development services, the retail services component is specific to the large bank CRA examination process and

<sup>19</sup> 12 C.F.R. §228.22(b)

<sup>20</sup> 12 C.F.R. §228.26(b)

<sup>21</sup> 12 C.F.R. §228.23(a). See also Interagency CRA Q&A .12(h)—6: “In addition, a retail institution that, considering its performance context, has adequately addressed the community development needs of its assessment area(s) will receive consideration for certain other community development activities. These community development activities must benefit geographies or individuals located somewhere within a broader statewide or regional area that includes the institution’s assessment area(s). Examiners will consider these activities even if they will not benefit the institution’s assessment area(s).” In addition, the bank must be responsive to community development needs and opportunities in its assessment area(s).

<sup>22</sup> 12 C.F.R. §228.23(e)(1)-(4); see 2010 Interagency Q&As §\_.23(e)-1 and §\_.23(e)-2.

focuses on the location of branch offices and their operations. The distribution and accessibility of branch offices to LMI areas and persons are considered along with the opening or closing of any branch locations, particularly in LMI geographies. Alternative delivery methods, including ATMs and mobile banking, are also considered. Finally, the range of services provided in geographies with different income levels and the degree to which the services are tailored to meet local needs are part of the performance evaluation.<sup>23</sup>

Under the community development services component of the large bank service test, CRA consideration is given to services with a community development purpose that are related to the “provision of financial services.”<sup>24</sup> Both requirements must be satisfied. In general, activities that use employees’ financial expertise as related to banking meet the definition of a community development service.<sup>25</sup> Activities may result from serving on the board of directors of a community development organization or by providing financial expertise through volunteer activities. Qualified community development services are reviewed for the extent to which community development services are provided and the innovativeness and responsiveness of the services to area needs.<sup>26</sup>

Identifying and documenting qualified services may be best accomplished through a bankwide effort that engages staff across the organization. Some institutions have had success capturing community development services through the use of an internal form to document qualified activities. The form may be structured as a survey completed by staff members. The forms are periodically submitted to or aggregated by the CRA officer or other responsible staff to verify that the activities submitted qualify. An effective process will identify the nature of the service provided, any partner organizations involved, targeted beneficiaries of the service, and dates.

## CONCLUSION

With a clear strategy and proper preparation, banks transitioning from ISB performance standards to large bank performance standards can successfully navigate the differences between the two CRA evaluation methods. Enlisting the aid of bank personnel across different departments, including lending, finance, and retail administration, can facilitate the transition process, and engaging such staff on an ongoing basis can help sustain success.

Specific issues and questions should be raised with your primary regulator. 

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<sup>23</sup> 12 C.F.R. 228.24(d)(1)-(4); see Interagency Q&As §\_24(d)-1.

<sup>24</sup> 12 C.F.R. §228.12(i)(2)

<sup>25</sup> See 2010 Interagency CRA Q&As §\_12(i)-1.


<sup>26</sup> 12 C.F.R. §228.24(e)

## Review of Regulations Under the Economic Growth and Regulatory Paperwork Reduction Act

The Federal Financial Institutions Examination Council (FFIEC), the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (agencies) are required under the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) to review their regulations every 10 years to identify outdated, unnecessary, or unduly burdensome regulations and to consider how to reduce the regulatory burden on insured depository institutions while ensuring their safety and soundness and the safety and soundness of the financial system.

In connection with the current review, the agencies are publishing four Federal Register notices over the next two years. The first notice was published on June 4, 2014; the comment period officially closed on September 2, 2014. The other three notices will be published in

the future. The regulations have been divided into 12 subject-matter categories, and each notice will address one or more categories. The notices list all of the regulations under review, some of which are Interagency regulations, and some of which are unique to each agency. The public is invited to comment and can do so through the FFIEC website during the comment period.

In addition, the agencies are conducting outreach meetings. The first meeting was held on December 2, 2014, in Los Angeles. Additional meetings will be held throughout 2015, and locations currently include Dallas on February 4, Boston on May 4, Chicago in October (date to be determined), and Washington, D.C., on December 2. The sessions are videotaped and can be viewed on the FFIEC website along with agendas and registration information for the future outreach meetings. 

CONTINUED FROM PAGE 3...

## MANAGING COMPLIANCE RISK THROUGH CONSUMER COMPLIANCE RISK ASSESSMENTS

Under the RFS Program, inherent risk is evaluated using a five-point rating system: 1 = Low, 2 = Limited, 3 = Moderate, 4 = Considerable, and 5 = High. Each rating identifies the likelihood of significant or negative impact on the institution or consumers, and any expected sanctions, losses, or damage to reputation due to consumer compliance risk. Institutions are not required to use a particular rating system, and some institutions may use a different rating scale or use a color-coded system. The important point is to ensure that the rating system has a logical rationale that promotes consistent conclusions.

### *Risk Controls*

Once the institution's inherent risks are identified, the institution should evaluate the adequacy of its man-

agement systems to effectively monitor and control these risks within the institution's business activities.<sup>4</sup>

The evaluation of mitigating controls and processes should consider the effectiveness of the traditional four pillars of a sound consumer compliance management program; namely:

- The level of board and senior management oversight, including the adequacy of staffing levels and the level of consumer compliance risk management expertise of staff
- The adequacy of policies, procedures, and limits, as well as training provided to staff
- The adequacy of risk monitoring and management

<sup>4</sup> See RFS Program at 12.

information systems provided to directors and senior management to effectively manage the institution's compliance management program

- The adequacy of internal controls

### **Board and Senior Management**

The risk assessment should evaluate board and senior management oversight to ensure that directors have a clear understanding of the types of risks to which the institution is exposed and that senior management is capable of managing the institution's activities.<sup>5</sup> The ways of promoting effective board and senior management oversight include:

- Identifying and understanding the risks inherent in the institution's activities, and using reporting systems to measure and monitor the major sources of risks to the institution
- Reviewing and approving policies and procedures that mitigate inherent risks
- Overseeing third-party vendors that provide products and services to the institution
- Ensuring that business lines are managed and adequately staffed by knowledgeable and experienced staff consistent with the nature and scope of the institution's activities
- Supervising day-to-day activities by officers and employees, including management supervision of senior officers and heads of business lines
- Anticipating and responding to risks that may arise from changes in regulatory or legal requirements, innovations in the market, and changes in the competitive market
- Performing due diligence and risk assessments for new activities or products

### **Policies and Procedures**

Policies and procedures should address the risks associated with the institution's activities and provide guidance to staff to complete transactions or processes in accordance with applicable laws and regulations.<sup>6</sup> Larger, more complex institutions have a greater need

for written policies and procedures, while smaller, non-complex institutions may have less formal policies and procedures. Limits are necessary to identify products or services that the institution has identified as harmful or undesirable. Limiting the ability of lending personnel to deviate from the institution's established underwriting or pricing guidelines, without appropriate approval, is an example of a limit that an institution might impose. Finally, ongoing training and the education of staff is essential to maintaining a sound compliance management program and should be commensurate with the institution's activities and organizational structure. It is important that the policies, procedures, and limits are consistent with the institution's stated goals and objectives and that they clearly delineate lines of authority across the institution's activities.

### **Risk Monitoring and Management Information Systems (MIS)**

Risk monitoring and MIS should provide senior management and directors with timely information on the compliance risk exposure of the institution, as well as information for personnel engaged in the daily management of the institution's activities.<sup>7</sup> The sophistication of the risk monitoring and MIS will vary depending on the complexity and diversity of the institution's operations but should address all of the institution's material risks. Maintaining effective risk monitoring and MIS allows an institution to reevaluate its risks on a regular basis so management can respond timely and efficiently to changes in the institution's compliance risks.

### **Internal Controls**

As discussed in the RFS Program, "effective internal controls are the foundation for the safe, sound, and compliant operation of a financial institution."<sup>8</sup> They should include procedures needed to promptly detect failure of accountability, and the procedures should be performed by competent persons who have no incompatible duties. The risk assessment should evaluate whether testing is performed to detect if any preventative controls fail to work properly or if the controls

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<sup>5</sup> See RFS Program at 23.

<sup>6</sup> See RFS Program at 25.

<sup>7</sup> See RFS Program at 27.

<sup>8</sup> See RFS Program at 27.



are circumvented. Audit has the responsibility for independently monitoring and evaluating the effectiveness of controls.<sup>9</sup> Finally, an institution should ensure that adequate controls are in place to review vendors affecting consumer compliance risk, including conducting due diligence in hiring and overseeing vendors, establishing contracts with vendors that clearly outline expectations and standards, evaluating the compliance risk associated with products or services offered by the vendors, and monitoring the vendor's adherence to contractual requirements.

Under the RFS Program, a five-point rating system is used to assess risk controls: 1 = Strong, 2 = Satisfactory, 3 = Fair, 4 = Marginal, and 5 = Unsatisfactory. Each rating reflects an assessment of the effectiveness of management's ability to identify and control the consumer compliance risks posed by the institution's business activities.

### *Residual Risk*

The final step to completing the consumer compliance risk assessment is balancing the identified inherent risks and the effectiveness of the institution's compliance risk management system to determine the level of remaining risk, or residual risk. Residual risk is the risk that remains after determining the level of inherent risk and reaching a conclusion about the effectiveness of risk controls associated with the institution's material products. The residual risk determined for each of the institution's material products is aggregated to capture the residual risk for the institution as a whole.<sup>10</sup> Residual risk ratings are as follows: 1 = Low, 2 = Limited, 3 = Moderate, 4 = Considerable, and 5 = High.

### USING THE RISK ASSESSMENT INFORMATION

Once an institution completes a compliance risk assessment for all activities, the conclusions can inform business decisions about the products and services an institution offers or is considering offering. Management should also use the assessment to inform decisions about the adequacy of controls based on the level of residual risk. A well-constructed risk assessment serves as the foundation for a methodical, measured, and proactive approach to the consumer compliance challenges an in-

stitution faces. Additionally, a sound risk assessment process helps compliance personnel to respond proactively to changing compliance risks within the institution.

It is important for an institution to maintain and update its consumer compliance risk assessment, especially as it relates to:

- The introduction of new products
- Changes to existing products
- Regulatory changes
- New or updated systems
- Changes in compliance management personnel
- Examination or audit findings
- Changes in the institution's strategy
- Adoption of third-party vendor services

The board is responsible for ensuring compliance with consumer protection laws and regulations, and therefore, it should review and approve the risk assessment. The absence of oversight by the board and senior management to the compliance risk assessment process may indicate a weakness in the consumer compliance management program. The most effective risk assessments are supported by board and senior management and are conducted regularly across all business units of the bank.

### CONCLUSION

In today's rapidly changing regulatory environment, regular consumer compliance risk assessments are important and beneficial. They can help a financial institution measure and mitigate the risks inherent in its consumer products and services, identify possible weaknesses in its controls and processes, and make any necessary changes to its consumer compliance management program in light of the assessment. Because risk assessments are risk focused, they place more weight on products, services, and processes that entail greater risk. The resulting assessments help management and the board know where the increased compliance risks reside so they can respond appropriately. Specific issues and questions related to risk assessment expectations should be raised with your primary regulator. ©

<sup>9</sup> See RFS Program at 27.

<sup>10</sup> See RFS Program at 31.



# OUTLOOK LIVE WEBINARS

The Federal Reserve System regularly conducts Outlook Live webinars on consumer compliance topics. Here are the archived webinars conducted in 2014, which are available for replay free of charge. You can view the webinars and presentation slides on the Outlook Live archive page at <http://bit.ly/Outlook-webinars>.

Date	Webinar	Description
12/4/14	Consumer Compliance Hot Topics — 2014 Year in Review	This session discussed significant 2014 compliance changes and previewed changes for 2015.
11/18/14	TILA-RESPA Integrated Disclosures, Part 4 — Completing the Closing Disclosure	This session focused on issues related to completing the closing disclosure.
10/22/14	2014 Federal Interagency Fair Lending Hot Topics	This session discussed expectations for compliance management systems, fair lending risk assessments, REO properties, maternity leave discrimination, mortgage pricing risks, and auto lending enforcement. The presenting agencies were the CFPB, DOJ, FDIC, Federal Reserve, HUD, NCUA, and OCC.
10/1/14	FAQs on the TILA-RESPA Integrated Disclosures Rule, Part 3 — Completing the Loan Estimate	This session focused on questions related to rule interpretation and implementation challenges for the loan estimate.
8/26/14	FAQs on the TILA-RESPA Integrated Disclosures, Part 2 — Various Topics	This session covered application, scope, record retention, timing for delivery, tolerance, and basic form contents for the disclosures.
7/17/14	Interagency Questions and Answers Regarding Community Reinvestment	This session covered revisions to the Interagency Q&As Regarding CRA issued on 11/15/13, and the revised Interagency Large Institution CRA Examination Procedures issued on 4/18/14.
6/17/14	TILA-RESPA Integrated Disclosures, Part 1 — Overview of the Rule	This session provided an overview of the integrated disclosures final rule and addressed compliance questions.
4/10/14	Consumer Compliance Management Program — Common Concerns and Best Practices	This session discussed concerns commonly seen at Federal Reserve supervised institutions and highlighted various components of a successful compliance program.
3/6/14	Community Bank Risk-Focused Consumer Compliance Supervision Program	This session provided an overview of the new Risk-Focused Supervision Program.

## REGULATORY CALENDAR\*

Effective Date	Implementing Regulation	Regulatory Change	Outlook Live Webinar
†	Regs. E and Z	Proposal to provide consumer protections for prepaid cards	
†	N/A	Proposal to define larger nonbank participants in automobile financing market	
†	Reg. BB	Proposal to revise Interagency Community Reinvestment Act Q&As	
†	Reg. C	Proposal to add new HMDA data fields to Reg. C	
†	Various	Interagency proposal under Economic Growth and Regulatory Paperwork Reduction Act to streamline regulations of FRB, OCC, and FDIC	
†	Various	Interagency proposal to establish minimum requirements for appraisal management companies	
†	Reg. E	Proposal to extend until July 21, 2020, temporary provision allowing use of estimates for foreign remittance transfer pricing disclosures	
†	Reg. H	Proposal to implement Biggert-Waters Flood Insurance Reform Act	
8/1/15	Regs. X and Z	Final rule integrating RESPA and TILA mortgage disclosures	6/17/14 8/26/14 10/1/14
12/1/14	Reg. E	Final rule defining larger nonbank participants in international money transfer market	
11/3/14	Reg. Z	Final rule on cure procedure for points and fees error for Qualified Mortgages	
10/28/14	Reg. P	Final rule to streamline privacy notices	

† Rulemaking proposals generally do not have an effective date.

Links to the regulatory changes are available in the online version of *Outlook* at [tinyurl.com/calendar-cco](http://tinyurl.com/calendar-cco).

### UNDER COVER



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**The Outlook Team**

## CALENDAR OF EVENTS 2015

February 8–11

**National Conference for Community Bankers**

American Bankers Association  
Boca Raton Resort & Club  
Boca Raton, FL

March 1–5

**Community Banking LIVE Convention & Expo**

Independent Community Bankers of America  
Gaylord Palms Resort & Convention Center  
Orlando, FL

April 2–3

**Community Development Research Conference**

Federal Reserve System  
Washington, DC

May 21–22

**Mortgage Contract Design: Implications for Households,  
Monetary Policy, and Financial Stability**

Federal Reserve Bank of New York  
New York, NY