

Outlook Live Webinar – July 17, 2014

**Interagency Questions and
Answers Regarding
Community Reinvestment**

Presented by the FRB, FDIC, and OCC

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Interagency Questions and Answers Regarding Community Reinvestment

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Agenda

- Overview
- Revised and new Q&As regarding community reinvestment
- Revised examination procedures for large institutions
- Questions

Overview

- Response to comments and issues raised during:
 - 2010 public hearings
 - Other outreach
 - Examinations
- Concern that community development (CD) activities are undervalued
- Additional guidance to clarify and promote CD activities was warranted

Community Development Defined

- Affordable housing for low- or moderate-income individuals;
- Community services targeted to low- or moderate-income individuals;
- Activities that promote economic development by financing small businesses or small farms;
- Activities that revitalize or stabilize low- or moderate-income areas; designated disaster areas; or underserved or distressed nonmetropolitan middle-income areas; and
- Loans, investments, and services that support, enable, or facilitate Neighborhood Stabilization Program (NSP) eligible activities in designated target areas.

Issues Prompting Change

- Inconsistent application of guidance during the evaluation process
 - Activities in the broader statewide or regional area (BSRA) that includes the assessment area (AA)
 - Investments in nationwide funds
 - CD lending
 - CD services
 - Qualified investments
- Requests to clearly define “regional area”

Five Revised Q&As

- § __.12(h)–6: Activities in the BSRA
- § __.12(h)–7: Meaning of “regional area”
- § __.23(a)–2: Investments in nationwide funds
- § __.12(g)(2)–1: Community services
- § __.12(i)–3: CD services

Two New Q&As

- § __.12(t)–9: Qualified investments
- § __.22(b)(4)–2: CD lending

One Redesignated Q&A

- § __.12(g)–4 to § __.21(f)–1: Activities with minority and women-owned financial institutions and low-income credit unions

§ __.12(h)–6 CD Activities in the BSRA

- CD activities in the BSRA that includes the bank's AA(s) are considered
- CD activities that will not benefit the bank's AA(s) may enhance the bank's performance if the bank is responsive to CD needs and opportunities in its AA(s)
 - Responsiveness is a concept reflected throughout the regulations
 - Provides a flexible standard for determining consideration

How CD Activities in the BSRA are Considered

Always considered

Direct benefit to AA(s)

- OR -

Purpose, mandate, or
function to serve the
AA(s)

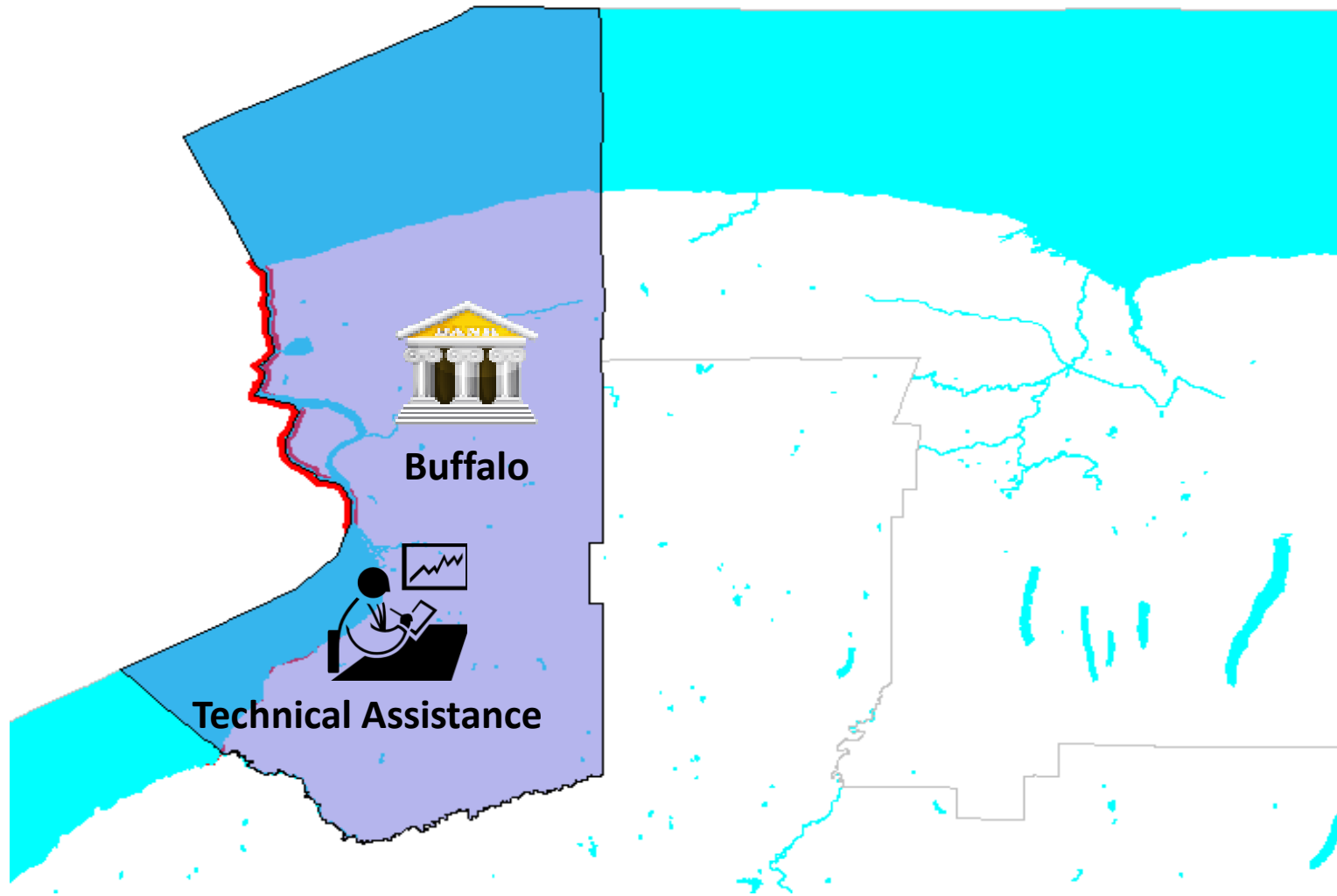
May be considered

If the bank has been
responsive to the
needs and opportunities
in its AA(s) –

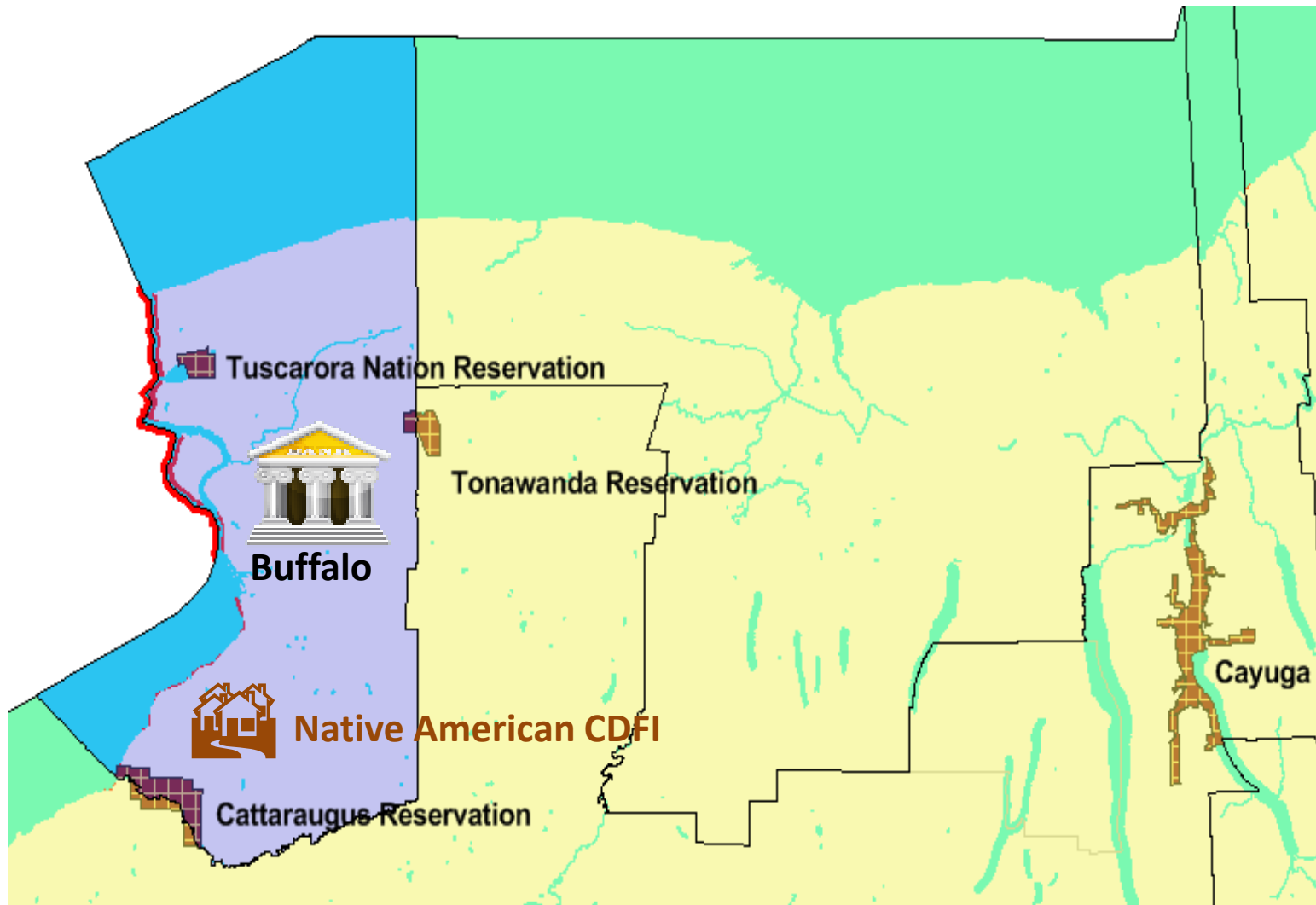
Activities that do not
serve and will not
benefit the AA(s)

Examples: Activity with purpose, mandate, or function to serve the AA(s)

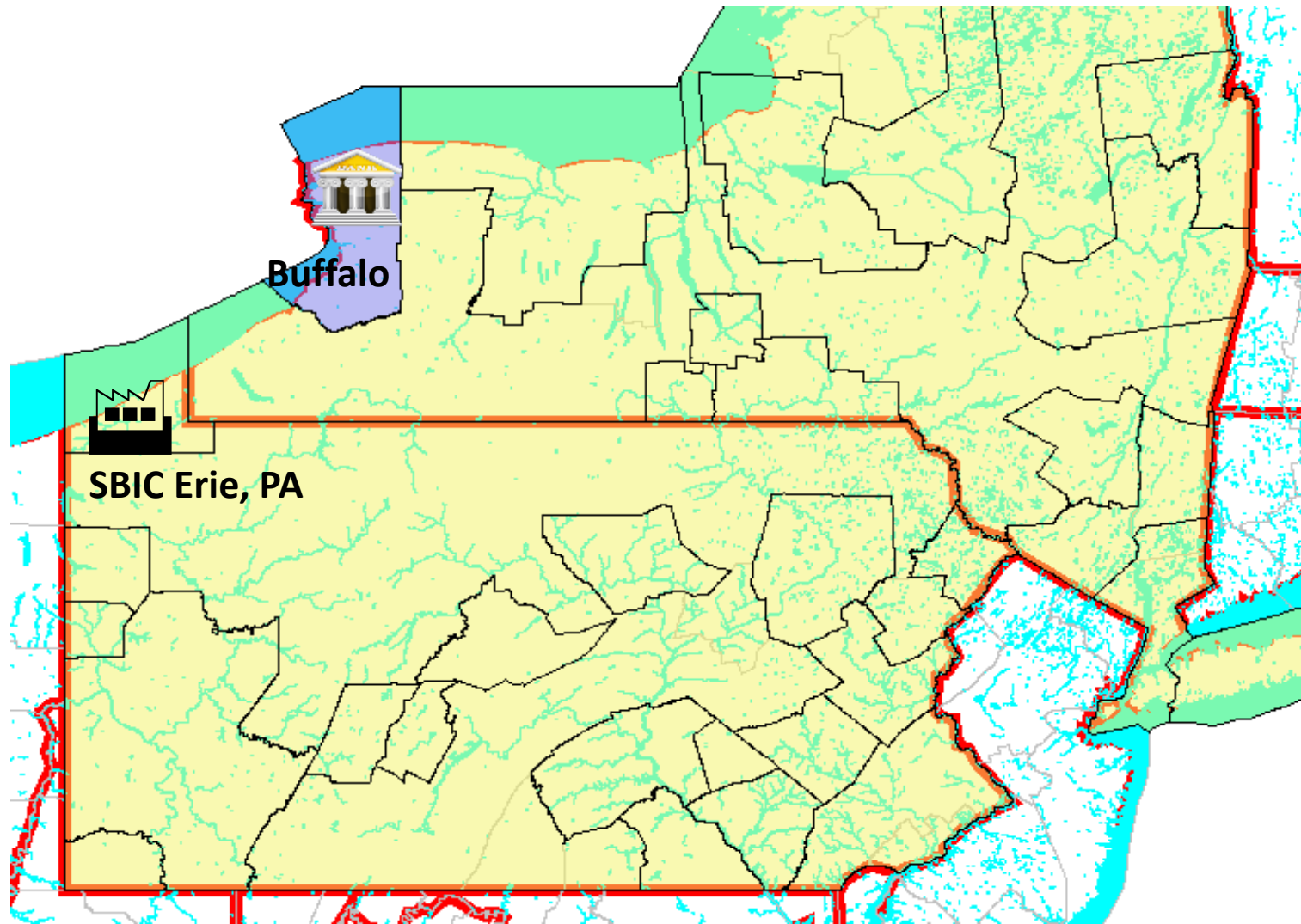
Activity	Coverage	Initial level considered during evaluation	Performance Evaluation (PE) Comments	Shown in tables (when used)
Technical Assistance to CD organization	AA	AA conclusion	Discussed at AA level	AA line
Investment in Native American Community Development Financial Institutions (CDFI)	Indian Lands in Western NY State	State rating	Discussed at state level	Separate line for state activity
Investment in Regional Small Business Investment Corporation (SBIC)	Multiple states within a region	Institution rating	Discussed at institution level	Separate line for regional activity



Example 1: The bank has defined the Buffalo metropolitan statistical area (MSA) as its AA, and bank offers technical assistance in its AA.



Example 2: The bank makes an investment in a Native American CDFI. The CDFI serves Indian territory within the bank's AA and home state.



Example 3: The bank makes a qualified investment in an SBIC that serves the Great Lakes Region, including the bank's AA.

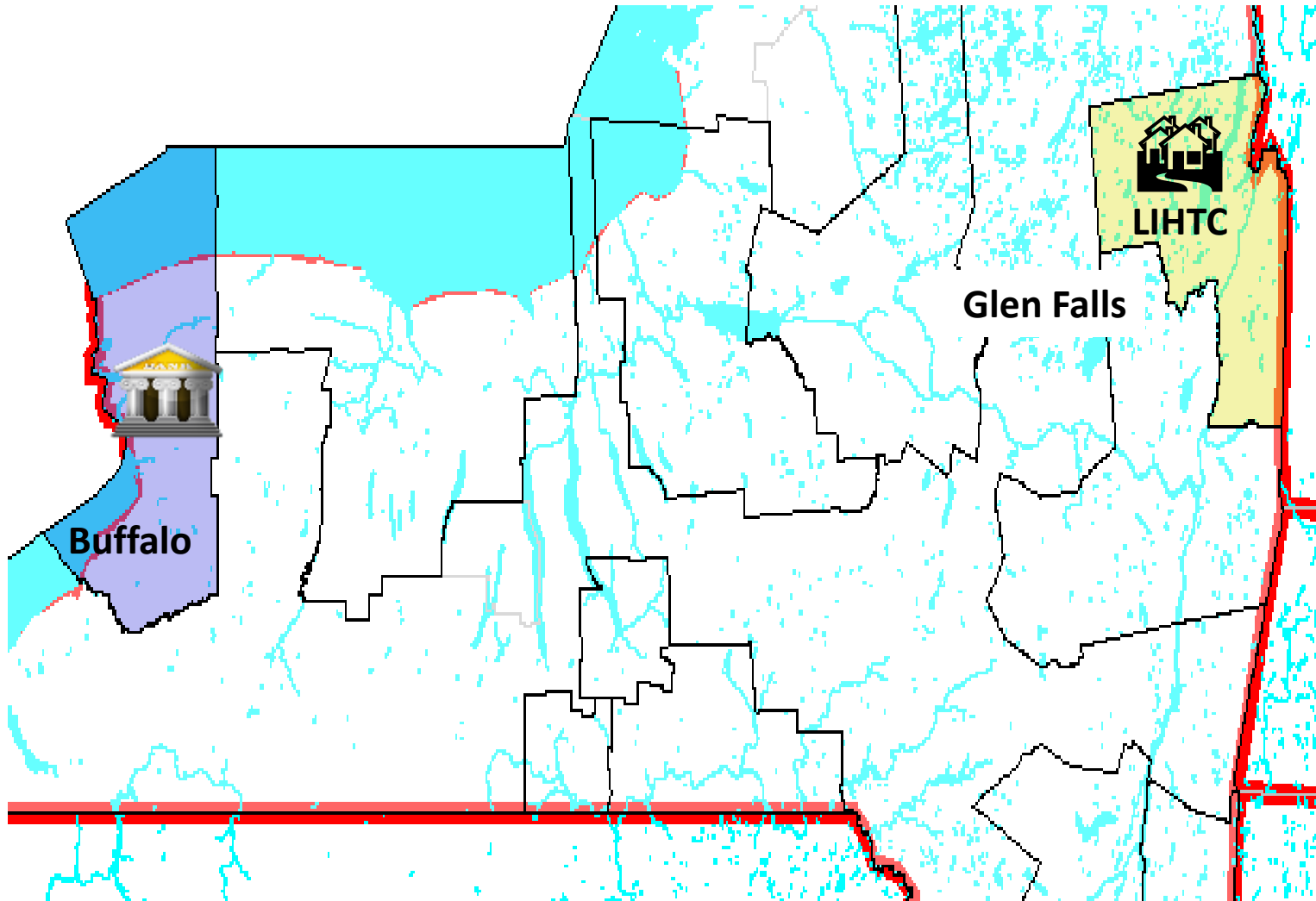
Responsiveness to AA(s)

Examiners will:

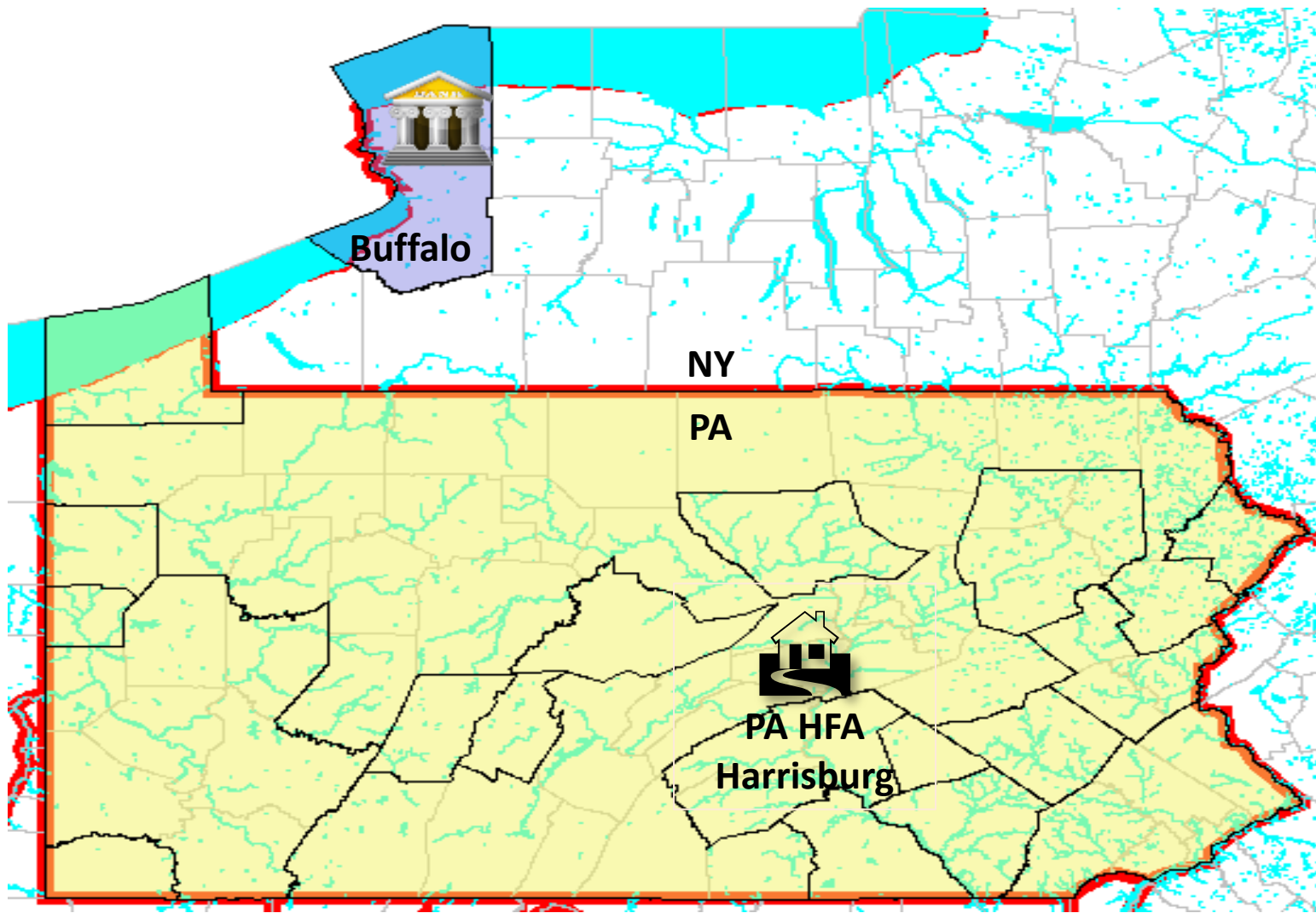
- Assess responsiveness to needs and opportunities
- Include activities with direct benefit
- Include activities with a purpose, mandate, or function that includes serving the AA(s), even if the specific activity does not benefit the AA(s)
- Always consider performance context

Examples: Activity has no purpose, mandate, or function to serve the AA(s)

Activity	Geographic Coverage	Initial level considered during evaluation	PE Comments	Shown in tables (when used)
Loan related to Low-Income Housing Tax Credit (LIHTC) project	In state: no impact on AA	State level	May be considered at <u>state</u> level if bank has been responsive to needs and opportunities in its AA	Separate line for state activity
Investment in Housing Finance Authority	Adjacent state	Institution level	May be considered at <u>institution</u> level if bank has been responsive to needs and opportunities in its AA	Separate line for regional activity



Example 1: The bank makes a loan related to a LIHTC project within the state, but that will not benefit the bank's AA.



Example 2: The bank makes a qualified investment in the Pennsylvania State Housing Finance Authority which benefits multiple communities outside of the bank's home state, but within the broader regional area.

§ __.12(h)–7 Regional Area

- Interstate or intrastate area
- Common interdependencies
 - Geographic
 - Economic
 - Demographic
- Commonly accepted delineations
 - “Tri-county area”
 - “Mid-Atlantic states”
- Often defined by geographic scope and purpose of CD organization or initiative

Examples: Regional Area

- Appalachian region:
 - Defined in authorizing legislation for the Appalachian Regional Commission
- The Carolinas:
 - Commonly recognized and used by organizations that serve both North and South Carolina
- Delta region:
 - Counties and parishes in 8 states: Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee

§ __.23(a)–2 Qualified Investments in Nationwide Funds

- Important sources of investments in low- and moderate-income and underserved communities
- Investments must meet geographic requirements
- AA(s) are the primary focus of Community Reinvestment Act (CRA) evaluation
- Documentation is not required for consideration
- Side letters and earmarking are still permissible
- Artificial or arbitrary allocations to assessments are not acceptable

Examples: Qualified Investments in Nationwide Funds

Branch Footprint	Documentation provided	Initial level considered during evaluation	PE Comments	Shown in tables (when used)
Nationwide	None	Institution level	Overall bank rating	Separate line for nationwide activity
Three contiguous states	Documentation showing direct benefit to one AA	AA level	AA conclusion	AA line
One state	No documentation to demonstrate investment benefits AA or BSRA	Not considered	NA	NA

§ __.12(g)(2)–1 Community Services Targeted to Low- or Moderate-Income Individuals

- Two proxies were added for determining whether beneficiaries are low- or moderate-income
 - Majority of students receive free or reduced-price meals
 - Services are targeted to individuals who receive or are eligible to receive Medicaid
- Proxies for low- or moderate-income also include recipients of government assistance programs with income restrictions equal to or more strict than the definition of low- or moderate-income under CRA

§ __.12(i)–3 CD Services

- Added additional examples of technical assistance that can be provided to CD organizations which qualify as CD services
 - Service on the board of directors of CD organizations
 - Providing services reflecting employee’s area of expertise at the institution

New Q&A: § __.12(t)–9 Certain Types of Qualified Investments

- Consideration given for dollar amount that benefits an organization or activity with a primary purpose of CD
 - Excludes consideration of the face value of the investment if only the yield, or a portion of the investment, is used to fund CD activity
- However, the full amount is considered if:
 - Organization has a bona fide intent to deploy funds for a CD purpose, or
 - Funds are used to leverage and increase the organization's capacity to lend or provide other CD services

Examples: Qualified Investments

Type of Activity	Primary Purpose of CD	Amount Considered
\$1 million investment in a CDFI	Nonprofit intermediary with a CD mission	\$1 million
Proceeds from \$1 million bank loan to a nonprofit are invested in Treasury securities. Interest paid on securities funds the CD program.	Targeted program has a primary purpose of CD, but receives only interest from the non-qualifying investment	Interest paid to support CD program in bank's AA

New Q&A: § __.22(b)(4)–2 CD Lending

- CD lending is always a factor in evaluating performance under the large bank lending test
- Record of CD lending may have a positive, neutral, or negative impact on the large bank lending test rating
- Considered in context of business model and community needs and opportunities in AA(s) or the BSRA
- Strong retail lending performance may compensate for weak CD lending performance and vice versa
- Preamble notes that there is not a mandate to lend in all AA(s)

Examination Procedures

- Interagency Large Institution CRA Examination Procedures issued April 18, 2014
- Only those sections related to CD activities and ratings are revised
- Appendix breaks out:
 - Initial level where activity is considered (AA, state, institution)
 - Where activity will be discussed in the PE
 - How data will be shown in the PE tables (when used)

Examples: Appendix to Examination Procedures

Activity	Bank Footprint	Area activity serves	Initial level considered during evaluation	PE Comment	Shown in tables (when used)
Government National Mortgage Association security: 2 of 15 projects are CD	Single state	Projects are primarily in the bank's state	Not considered as the security does not have a CD primary purpose	NA	NA
Investment in regional CRA fund	Two states: bank requests pro-rata allocation of investment to AA(s) based on deposits	AA(s) plus two additional states	Institution level: Not discussed at AA level unless direct benefit to AA	Overall bank rating	Separate line for regional activity

Summary

- In determining responsiveness, examiners will consider activities in the BSRA that serve the AA(s), even if the specific activity does not benefit the AA(s).
- If the bank has been responsive to their AA(s), examiners will also consider activities in the BSRA that neither benefit nor serve the AA(s).
- Regional areas typically have some economic, geographic, or demographic interdependencies, or there may be commonly accepted delineations.
- Geographic requirements always apply, including institutions that have a minimal branch presence and a nationwide business focus.

Summary (continued)

- For investments in which only the income supports community development, examiners will consider only the income.
- Examiners will consider performance context when evaluating a bank's CD lending.
- Banks may use proxies described in the Q&A to determine whether beneficiaries of CD services are low- or moderate-income, and may need to demonstrate the income qualifications of other proxies they propose.
- The performance evaluation addresses activities at the AA, state, multistate MSA, or institution level based on area served by the organization or activity.
- Investments will be recognized where benefit accrues rather than by arbitrary methods to allocate benefit to individual AA(s) or states.

Resources

- November 20, 2013 Federal Register Notice Supplementary Interagency *Questions and Answers*
<http://www.ffiec.gov/cra/pdf/bcreg20131115a2.pdf>
- March 11, 2010 Federal Register Notice Interagency *Questions and Answers* <http://www.ffiec.gov/cra/pdf/2010-4903.pdf>
- Interagency Revised CRA Examination Procedures
[http://www.ffiec.gov/cra/examinations.htm#EX PROCEDURES](http://www.ffiec.gov/cra/examinations.htm#EX_PROCEDURES)
- FDIC <http://www.fdic.gov/regulations/community/community/index.html>
- FRB http://www.federalreserve.gov/communitydev/cra_about.htm
- OCC <http://www.occ.gov/topics/compliance-bsa/cra/index-cra.html>
- FFIEC <http://www.ffiec.gov/cra>

Questions?

