

to CRA performance under the regulation and was not addressed in the examination. In these circumstances, the applicant should present sufficient information to supplement its record of performance and to respond to the substantive issues raised in the application proceeding.

§ \_\_\_\_.29(a)—2: *What consideration is given to an institution's commitments for future action in reviewing an application by those agencies that consider such commitments?*

A2. Commitments for future action are not viewed as part of the CRA record of performance. In general, institutions cannot use commitments made in the applications process to overcome a seriously deficient record of CRA performance. However, commitments for improvements in an institution's performance may be appropriate to address specific weaknesses in an otherwise satisfactory record or to address CRA performance when a financially troubled institution is being acquired.

§ \_\_\_\_.29(b) *Interested parties*

§ \_\_\_\_.29(b)—1: *What consideration is given to comments from interested parties in reviewing an application?*

A1. Materials relating to CRA performance received during the application process can provide valuable information. Written comments, which may express either support for or opposition to the application, are made a part of the record in accordance with the agencies' procedures, and are carefully considered in making the agencies' decisions. Comments should be supported by facts about the applicant's performance and should be as specific as possible in explaining the basis for supporting or opposing the application. These comments must be submitted within the time limits provided under the agencies' procedures.

§ \_\_\_\_.29(b)—2: *Is an institution required to enter into agreements with private parties?*

A2. No. Although communications between an institution and members of its community may provide a valuable method for the institution to assess how best to address the credit needs of the community, the CRA does not require an institution to enter into agreements with private parties. The agencies do not monitor compliance with nor enforce these agreements.

§ \_\_\_\_.41—**Assessment area delineation**

§ \_\_\_\_.41(a) *In general*

§ \_\_\_\_.41(a)—1: *How do the agencies evaluate "assessment areas" under the CRA regulations?*

A1. The rule focuses on the distribution and level of an institution's lending, investments, and services rather than on how and why an institution delineated its assessment area(s) in a particular manner. Therefore, the agencies will not evaluate an institution's delineation of its assessment area(s) as a separate performance criterion. Rather, the agencies will only review whether the assessment area delineated by the institution complies with the limitations set forth in the regulations at § \_\_\_\_.41(e).

§ \_\_\_\_.41(a)—2: *If an institution elects to have the agencies consider affiliate lending, will this decision affect the institution's assessment area(s)?*

A2. If an institution elects to have the lending activities of its affiliates considered in the evaluation of the institution's lending, the geographies in which the affiliate lends do not affect the institution's delineation of assessment area(s).

§ \_\_\_\_.41(a)—3: *Can a financial institution identify a specific racial or ethnic group rather than a geographic area as its assessment area?*

A3. No, assessment areas must be based on geography. The only exception to the requirement to delineate an assessment area based on geography is that an institution, the business of which predominantly consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area, may delineate its entire deposit customer base as its assessment area.

§ \_\_\_\_.41(c) *Geographic area(s) for institutions other than wholesale or limited purpose institutions*

§ \_\_\_\_.41(c)(1) *Generally consist of one or more MSAs or metropolitan divisions or one or more contiguous political subdivisions*

§ \_\_\_\_.41(c)(1)—1: *Besides cities, towns, and counties, what other units of local government are political subdivisions for CRA purposes?*

A1. Townships and Indian reservations are political subdivisions for CRA purposes. Institutions should be aware that the boundaries of townships and Indian reservations may not be consistent with the boundaries of the census tracts ("geographies") in the area. In these cases, institutions must ensure that their assessment area(s) consists only of whole geographies by adding any portions of the geographies that lie outside the political subdivision to the delineated assessment area(s).

§ \_\_\_\_.41(c)(1)—2: *Are wards, school districts, voting districts, and water*

*districts political subdivisions for CRA purposes?*

A2. No. However, an institution that determines that it predominantly serves an area that is smaller than a city, town, or other political subdivision may delineate as its assessment area the larger political subdivision and then, in accordance with 12 CFR \_\_\_\_.41(d), adjust the boundaries of the assessment area to include only the portion of the political subdivision that it reasonably can be expected to serve. The smaller area that the institution delineates must consist of entire geographies, may not reflect illegal discrimination, and may not arbitrarily exclude low- or moderate-income geographies.

§ \_\_\_\_.41(d) *Adjustments to geographic area(s)*

§ \_\_\_\_.41(d)—1: *When may an institution adjust the boundaries of an assessment area to include only a portion of a political subdivision?*

A1. Institutions must include whole geographies (i.e., census tracts) in their assessment areas and generally should include entire political subdivisions. Because census tracts are the common geographic areas used consistently nationwide for data collection, the agencies require that assessment areas be made up of whole geographies. If including an entire political subdivision would create an area that is larger than the area the institution can reasonably be expected to serve, an institution may, but is not required to, adjust the boundaries of its assessment area to include only portions of the political subdivision. For example, this adjustment is appropriate if the assessment area would otherwise be extremely large, of unusual configuration, or divided by significant geographic barriers (such as a river, mountain, or major highway system). When adjusting the boundaries of their assessment areas, institutions must not arbitrarily exclude low- or moderate-income geographies or set boundaries that reflect illegal discrimination.

§ \_\_\_\_.41(e) *Limitations on delineation of an assessment area*

§ \_\_\_\_.41(e)(3) *May not arbitrarily exclude low- or moderate-income geographies*

§ \_\_\_\_.41(e)(3)—1: *How will examiners determine whether an institution has arbitrarily excluded low- or moderate-income geographies?*

A1. Examiners will make this determination on a case-by-case basis after considering the facts relevant to the institution's assessment area delineation. Information that examiners will consider may include: