



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

CA 90-11
DIVISION OF CONSUMER
AND COMMUNITY AFFAIRS

July 3, 1990

TO OFFICERS IN CHARGE OF CONSUMER AFFAIRS AND COMMUNITY AFFAIRS
SECTIONS

In light of the changes to the CRA examination process taking effect after July 1, we would like to discuss some matters pertaining to the conduct of CRA examinations and the handling of public disclosure of CRA ratings and performance evaluations by Reserve Banks. The issues addressed in this letter have been collected mainly from questions raised by System personnel, personnel from other regulatory agencies, bankers, and members of the public during conferences and training sessions held over the past few months. As we get further into the new examination process we may find other issues that need to be addressed, as well. Reserve Banks should consult their Review Examiners on other questions which may arise.

1. Use of CRA Questionnaire. We have found several instances in which Reserve Banks have altered the CRA Questionnaire. We would remind you that the CRA Questionnaire should not be altered in any way, given that use of the form is subject to formal clearance by OMB under the Paperwork Reduction Act. If you feel it is necessary to ask other questions prior to going on-site for the examination or during the examination itself, please do so in a form that does not involve altering the CRA Questionnaire. The completed CRA Questionnaire will remain confidential as part of the examination workpapers.

2. Public Release of CRA Ratings and Performance Evaluations by Reserve Banks. When transmitting the performance evaluation to the bank, Reserve Banks should ask bank management to send it copies of any written response the bank makes and puts in its public file. In answer to public inquiries (including telephone calls), Reserve Banks should be prepared to indicate whether or not a given bank has been examined under the new FIRREA provisions and, if requested, the narrative rating assigned. However, the rating should be given only after the bank has had the time permitted by regulation to make the evaluation public.

Further, to avoid misunderstandings, there should be no discussion of the conclusions reached in the evaluation by way of explanation, embellishment, or addition. It is best that the evaluations be issued for public consumption in a way that they will stand on their own. Should the caller ask for a copy of the evaluation, he or she should be referred to the bank. However, the Reserve Bank should be prepared to supply a copy of the performance evaluation and any bank response, if doing so in any particular case would be expedient or avoid hardship for the caller. Again, the evaluation and any response prepared by the bank should be released only after the bank has had the time provided by the regulation to place them in its public file.

3. Assuring Proper Publication. Since the Reserve Bank will be sending both the public evaluation and an examination report to the bank, it is imperative that the bank know which is to be put in its public files. Consequently, the transmittal letter should be very explicit concerning which document is to be made public and which is not. Reserve Banks may wish to mail the examination report separately from the public evaluation to avoid the possibility of confusing the two documents. The transmittal letter that accompanies the public evaluation should also explain what the new rules require the bank to do with the document, including time requirements.

4. Communication with Bank Management. Concern has been expressed that bankers may not feel free to challenge or clarify the examiner's facts or conclusions. It should be explained, preferably in the "first day" letter that precedes the on-site portion of the examination, that the performance evaluation will be based on all information gathered during the course of the examination, and will reflect facts and findings which have been obtained from the bank and members of the community. In the interests of accuracy and clarity, it should be emphasized to the bank that the bank's management and other relevant personnel are encouraged to bring forward any facts and conclusions they believe to be pertinent to the bank's CRA record during the examination process.

Examiners should ensure that bank management is made aware of the conclusions reached, and the basis for them, before they leave the bank. They should, if possible, also convey to bank management the tentative rating to be assigned, emphasizing that it is tentative and subject to approval by supervisory personnel at the Reserve Bank. This point is being emphasized here in light of concern expressed by members of the industry about the lack of an appeals process. The final procedures did not provide for an appeals process in part because it was believed that the present system of informing the banks about the findings and conclusions during the on site portion of the examination was sufficient to allow bank management to state its objections. To ensure that this process works, however, it is critical that full and candid discussions take place between the examiner and the bankers during the examination.

The first day letter (or some other early communication) should also tell the bank that it must have a new CRA Notice ready to be used when it puts the public evaluation in its public file. This will give the bank some lead time for preparing the new notice. This, of course, will be necessary only for the first examination of each bank under the new process.

5. Ratings. The public performance evaluations will not contain a rating for each assessment factor or for each performance category. They must, however, discuss the examiner's conclusions about each assessment factor so as to convey to the reader how well (or how poorly) the examiner thought the bank had performed under each factor. The written discussions need not use the 4-tier rating terminology; by the same token, examiners need not go to great lengths to avoid using the rating terminology if using it would be natural and logical syntactically.

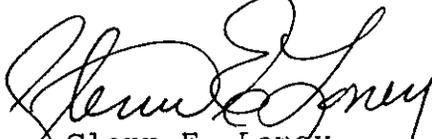
For internal purposes, we will continue to assign component ratings to the 5 Performance Categories, which would appear, as they now do, in the confidential page of the examination report. Numerical component and composite ratings will also continue to be transmitted on the form FR 1195. For purposes of the FR 1195, 1 will be "outstanding," 2 "satisfactory," 3 "needs to improve," and 4 "substantial noncompliance" under the new descriptive rating system.

6. Confidentiality. There will be three parts of the overall written product from the examination -- the public performance evaluation, the examination report that is shared only with the bank, and the confidential material which is shared with neither the public nor the bank. The statute stipulates that certain information must be kept confidential -- e.g. named officers, employees, or customers of the bank, names of individuals who have provided information to examiners in confidence, and any information deemed to be speculative or sensitive in nature. The statute permits the examination report sent only to the bank to contain such of this confidential information as the agency believes will promote the purposes of CRA (except that the identity of persons or organizations giving information in confidence may not be disclosed). The examination report containing information shared only with the bank would also include the examiners' recommendations for future improvement and any other information of a supervisory nature. The public evaluation should contain all of the facts and conclusions contained in the examination report except those that the statute allows to be given only to the bank. The confidential section should contain all of the confidential information the Reserve Bank wishes to keep in writing.

7. Examination of Banks in Weak Financial Condition. Banks should continue to be examined in accordance with System examination frequency guidelines. It may be appropriate to defer CRA examinations of banks in extremely weak financial condition where further lending may not be appropriate. Such decisions

should be made on a case-by-case basis, in consultation with Board staff. A poor CAMEL rating should not automatically be construed as grounds for deferring an examination, however.

Sincerely,

A handwritten signature in cursive script, appearing to read "Glenn E. Loney". The signature is written in black ink and is positioned above the typed name and title.

Glenn E. Loney
Assistant Director