

an institution can receive positive consideration for making “qualified investments” that help meet the credit needs of the institution’s assessment area(s) or a broader statewide or regional area that includes the institution’s assessment area(s).²

“Qualified investment” is defined in the revised CRA regulations as:

[A] lawful investment, deposit, membership share or grant that has as its primary purpose community development.³

“Community development” is defined to include:

Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration’s Development Company or Small Business Investment Company programs (13 CFR 121.301) or have gross annual revenues of \$1

examiners may adjust an institution’s evaluation under the small institution performance criteria, if appropriate, based on lending-related qualified investments. See 12 C.F.R. §§ 25.26(a)(1), 228.26(a)(1), 345.26(a)(1), and 563e.26(a)(1). See also Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment (hereinafter “Qs and As”), 61 Fed. Reg. 54,647, 54,658 (Oct. 21, 1996) (Q and A 1 addressing § __.26(a) (consideration of small institutions’ lending-related activities)). Qualified investments may also be considered to determine if a small institution merits an outstanding CRA rating. See 12 C.F.R. pt. 25 app. A(d)(2), pt. 228 app. A(d)(2), pt. 345 app. A(d)(2), and pt. 563e app. A(d)(2). See also Q and A 5 addressing § __.26(a), 61 Fed. Reg. at 54,659. The community development test, which is appropriate for wholesale and limited purpose institutions, evaluates, *inter alia*, the number and amount of qualified investments. See 12 C.F.R. §§ 25.25(c)(1), 228.25(c)(1), 345.25(c)(1), and 563e.25(c)(1). And, finally, institutions evaluated on the basis of a strategic plan must include in their plan how they intend to meet the credit needs of their assessment area(s). They may meet credit needs through lending, investment, and/or services, as appropriate. See 12 C.F.R. §§ 25.27(f)(1), 228.27(f)(1), 345.27(f)(1), and 563e.27(f)(1) (emphasis added).

² See 12 C.F.R. §§ 25.23(a), 25.25(e)(1), 25.26(a), 25.27(f)(1)(i), 228.23(a), 228.25(e)(1), 228.26(a), 228.27(f)(1)(i), 345.23(a), 345.25(e)(1), 345.26(a), 345.27(f)(1)(i), 563e.23(a), 563e.25(e)(1), 563e.26(a), and 563e.27(f)(1)(i). See also Q and A 2 addressing § __.26(b), 61 Fed. Reg. at 54,659-60 (consideration of a small institution’s qualified investments in a statewide or regional area that includes the institution’s assessment area(s)). In the case of wholesale and limited purpose institutions, examiners will give positive consideration to qualified investments nationwide if the institution has adequately addressed the needs of its assessment area(s). See 12 C.F.R. §§ 25.25(e)(2), 228.25(e)(2), 345.25(e)(2), 563e.25(e)(2).

³ 12 C.F.R. §§ 25.12(s), 228.12(s), 345.12(s) and 563e.12(r). This letter assumes, without deciding, that the financial institutions’ contributions to the Program would be lawful.

million or less.⁴

Financing businesses meeting the above size eligibility standards does not always necessarily promote economic development. The Agencies' examiners will presume that any loan to or investment in a Small Business Development Company or Small Business Investment Company promotes economic development. Other activities that finance small businesses that meet the size eligibility standards must support permanent job creation, retention, and/or improvement for persons who are currently low- or moderate-income or support permanent job creation, retention, and/or improvement in low- or moderate-income geographies targeted for redevelopment by Federal, state, local or tribal governments.

Financial institutions' contributions to the Program would be grants⁵ that have as their primary purpose community development. The Program will provide small loans to new and expanding small businesses in [city, state]. Provided that the small businesses meet the size eligibility standards discussed above and that financing them will promote economic development, institutions may receive positive CRA consideration for their investments in the Program's loan fund. Contributions to the Program's operating fund would help an institution meet the credit needs of its community by enabling the Program to extend the small business loans. Therefore, operating fund contributions would also receive favorable consideration during an institution's CRA evaluation, provided the Program loans promote economic development and the financial institutions' qualified investments benefit the institution's assessment area(s).⁶

I trust this letter is responsive to your inquiry. If you have further questions, please contact me or Michele Meyer, an attorney on my staff, at (202) 874-5750.

Sincerely,

/s/

Michael S. Bylsma
Director
Community and Consumer Law Division
Office of the Comptroller of the Currency

⁴ 12 C.F.R. §§ 25.12(h)(3), 228.12(h)(3), 345.12(h)(3), and 563e.12(g)(3).

⁵ See Q and A 5 addressing §§ _____.12(s) and 563e.12(r), 61 Fed. Reg. at 54,653.

⁶ As explained *supra* in note 2, in the case of wholesale and limited purpose institutions, examiners will give positive consideration to qualified investments nationwide if the institution has adequately addressed the needs of its assessment area(s).