

GUIDELINES FOR REQUESTING APPROVAL FOR A STRATEGIC PLAN UNDER THE COMMUNITY REINVESTMENT ACT

Background and Purpose

These guidelines apply to any state-member bank that wishes to request that it be evaluated under the Community Reinvestment Act ("CRA") on the basis of a strategic plan. These guidelines also apply to requests for approval to amend a strategic plan.

The strategic plan evaluation option in the regulation provides a bank with the opportunity to tailor its CRA objectives to the needs of its community and to its own capacities, business strategies and expertise. Therefore, not all of the factors described in the regulation would necessarily apply to each strategic plan. A bank has a great deal of latitude in constructing a strategic plan, but it is expected that public participation in development of the plan will provide a bank access to the fullest possible information about the needs of its community and how those needs might be met.

The required contents of a strategic plan and the Board's criteria for evaluating a strategic plan are specified in the Board's CRA regulation, 12 CFR 228.27. These guidelines do not supplant the regulation; rather, they are intended to serve as guidance in the preparation of a strategic plan and submission of the plan to the Board for approval. These guidelines specify the types of information that a bank will generally need to submit in requesting that it be evaluated on the basis of a strategic plan. In addition to the items listed in the guidelines, a bank may submit any other information that it may consider relevant to the Board's decision.

Performance context. A proposed strategic plan will be evaluated in the context of the information described generally in the Board's CRA regulation, 12 CFR 228.21(b). This information could include, as appropriate: demographic data on median income and household income; housing costs; lending, investment and service opportunities in the bank's assessment area(s); the bank's product offerings and business strategy; institutional capacity and constraints (including the bank's size and financial condition, and economic climate); past performance of the bank; and relevant information from the bank's public file. The agencies will not expect the bank to supply more information regarding the performance context than it would normally develop to prepare a business plan or to identify potential customers, including low- and moderate-income individuals or geographies in its assessment area(s). Information submitted by the bank will be considered along with information from community, government, civic and other sources.

Public comments. Public comment is important to, but not determinative of, the decision on strategic plan approval. The public comments will be reviewed by the Board to determine whether the bank offered the opportunity for community input into the plan, to assess the degree of support for the bank's goals, and to evaluate the appropriateness of those goals. The Board will, if necessary, consider other information regarding the performance context in addition to the

public comments and information submitted by the bank.

Election of alternative assessment method. A bank may elect in its strategic plan, that if it fails to meet substantially the plan goals for a satisfactory rating, its CRA performance will be evaluated under the (1) lending, investment and service tests, (2) community development test or (3) small-bank performance standards, whichever may be appropriate. If such an election is not made in the strategic plan, the bank will be evaluated only under the strategic plan, and failure to meet substantially the goals set forth for satisfactory performance will result in assignment of a rating of "needs to improve" or "substantial noncompliance."

Preparation and Submission of a Proposed Strategic Plan

A depository institution's proposed strategic plan, along with all requested information, should be submitted in writing to the federal regulatory agency that exercises primary supervisory authority with respect to that institution. If a proposed plan covers more than one institution, a copy of the entire plan should be submitted to each federal regulatory agency that has primary supervisory responsibility for one or more institutions covered by the plan and each institution must receive the approval of its own supervisory agency for those portions of the plan relating to that institution's CRA responsibilities.

A state-member bank's proposed strategic plan should be submitted to the Federal Reserve Bank that has supervisory responsibility for that member bank. If a proposed plan covers more than one state-member bank, a copy of the entire plan should be submitted to each Federal Reserve Bank that has supervisory responsibility for one or more banks covered by the plan. Inquiries concerning the preparation of a strategic plan should also be directed to the appropriate Federal Reserve Bank.

The Board, or the Federal Reserve Bank acting under delegated authority, may require the bank to submit any additional statements or information that it deems necessary. It is the bank's responsibility to submit the information necessary to demonstrate that the proposed strategic plan meets the criteria for approval.

Each request for approval of a proposed strategic plan should name a contact person at the bank. Upon receipt, the appropriate Reserve Bank will review the proposed strategic plan and related material to determine if the request is complete. A request for approval of a strategic plan will be deemed to be complete when all relevant information has been received by the Reserve Bank. If the request is deemed to be incomplete, the Reserve Bank will notify the requesting bank(s) and a request for additional information will be sent to the named contact person. If any information initially furnished with the request changes significantly during the processing of that request, the bank should communicate those changes promptly to the appropriate Reserve Bank.

Each request for approval of a proposed strategic plan should also contain a proposed effective date. The proposed effective date should be at least 90 days after the request is

submitted to the Reserve Bank. The bank will not be evaluated under a strategic plan until the bank has been operating under an approved and effective plan for at least one year.

Notification of Decision

The Board, or the Federal Reserve Bank acting under delegated authority, will act upon a bank's request for approval of its proposed strategic plan within 60 calendar days after the agency receives the complete plan, unless the agency extends the review period for good cause. The Board or Federal Reserve Bank will notify the bank of any extension of the review period, the reason for the extension and the date by which the Board or Reserve Bank expects to act upon the request. If the Board or Reserve Bank fails to act within this time period, the proposed plan will be deemed approved.

If a strategic plan covering multiple depository institutions must be approved by more than one regulatory agency, each agency will issue a decision approving or denying the request with respect to the institution(s) for which that agency has primary supervisory responsibility.

Confidentiality

Under the provisions of the Freedom of Information Act ("FOIA")(5 U.S.C. § 552), a request for approval of a proposed strategic plan that is submitted to the Board or a Federal Reserve Bank is a public document and is available to the public upon request. The decision approving or denying a proposed strategic plan may also be available to the public under the FOIA.

A bank may request confidential treatment for information that would be exempt from public disclosure under the FOIA. For example, if the requesting bank is of the opinion that disclosure of commercial or financial information would likely result in substantial harm to its competitive position or that of its affiliates, or that disclosure of information of a personal nature would result in a clearly unwarranted invasion of personal privacy, confidential treatment of such information may be requested. This request for confidential treatment must be submitted in writing concurrently with the filing of the strategic plan and must discuss in detail the justification for confidential treatment. Justification must be provided for each item or category of information for which confidential treatment is requested. The bank's request for confidentiality should explain the harm that would result from public release of the information.

Information for which confidential treatment is sought should be: (1) segregated from the other information that is submitted; (2) specifically identified in the nonconfidential portion of the strategic plan (by reference to the confidential section), and; (3) labeled "Confidential." The requesting bank should follow this same procedure on confidentiality with regard to filing any supplemental information. The Board will determine whether information labeled "Confidential" will be so regarded, and will advise the requesting bank of any decision to make information labeled "Confidential" available to the public.

A bank should follow the rules stated above when submitting confidential supervisory information, which includes any information contained in, related to or derived from reports of examination and inspection, or confidential operating and condition reports.

Requested Information

The requirements for a strategic plan are contained in the Board's CRA regulation, 12 CFR 228.27. A bank requesting approval for a strategic plan will generally need to submit:

1. The names of each bank joining in the plan and a description of how they are affiliated. The agencies will approve a joint plan only if the plan provides measurable goals for each bank.
2. For each bank, an identification of the assessment area(s) covered by the plan, including a list of the geographies involved.
3. The proposed term of the plan. A plan may have a term of no more than five years.
4. The proposed effective date for the plan, which should be at least 90 days after the plan is submitted to the Federal Reserve Bank.
5. A description of the formal or informal public input received during development of the plan. Copies of any written comments that were received during the development of the plan may be provided.
6. A copy of the required public notice and the name(s) of the newspaper(s) in which it was published.
7. Copies of all written comments received during the comment period.
8. A copy of the strategic plan released for public comment if it is different from the strategic plan being submitted for agency approval.
9. For each assessment area for each bank covered by the plan, copies of any information developed in the bank's normal business planning that it wants the agency to consider regarding lending, investment and service opportunities in the assessment area, including a description of any legal constraints or limitations that affect the type of loans, investments or services that the bank may make or offer.
10. For each assessment area for each bank covered by the plan, measurable goals for helping to meet the credit needs of the assessment area, particularly the needs of low- and moderate-income geographies and individuals. If the plan for a bank encompasses the activities of non-depository institution affiliates, it is not necessary to state separate goals for each such

affiliate.

Generally, a bank shall discuss its plans regarding lending, investments and services, with an emphasis on lending and lending related activities. However, the plan need not specify measurable goals in all three categories. Generally, a bank that has been designated a wholesale or limited purpose bank shall emphasize community development lending, qualified investments and community development services. However, a plan need not follow the general rule if the emphasis of the plan is responsive to the characteristics and credit needs of the particular assessment area(s), considering the public comments and the bank's capacity, constraints, product offerings and business strategy.

Accordingly, for each assessment area for each bank covered by the plan:

(a) A plan must include measurable annual goals that, if met, would constitute "satisfactory" performance.¹ Multi-year plans must include annual interim measurable goals.

(b) A plan may also include measurable goals for any bank covered by the plan that, if met, would constitute "outstanding" performance for that bank.

11. An indication whether any bank covered by the plan elects to be evaluated under another assessment method (e.g., large retail bank assessment method) if the bank fails to meet substantially the strategic plan goals for a satisfactory rating.

¹ Measurable goals are goals that are stated in quantifiable terms. However, banks are provided flexibility in specifying goals. For example, a bank may provide ranges of lending amounts in different categories of loans. It would also be appropriate for a bank to plan on making a certain number of loans or lending a specific amount in a particular area or with respect to a particular project. A bank might plan on providing community services measured in terms of the frequency of use or amount of staff resources involved. In addition, a bank could provide a menu of activities, each with a weighted point value, from which a measurable goal could be stated in point totals. Measurable goals may also be linked to funding requirements of certain public programs or indexed to other external factors as long as these mechanisms provide a quantifiable standard.