



## **PUBLIC DISCLOSURE**

March 15, 2021

### **COMMUNITY REINVESTMENT ACT PERFORMANCE EVALUATION**

Modern Bank, National Association  
Charter Number: 16629

410 Park Avenue, Suite 830  
New York, New York 10022

Office of the Comptroller of the Currency

340 Madison Avenue, Suite 910  
New York, New York 10173

**NOTE:** This document is an evaluation of this institution's record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods consistent with safe and sound operation of the institution. This evaluation is not, nor should it be construed as, an assessment of the financial condition of this institution. The rating assigned to this institution does not represent an analysis, conclusion, or opinion of the federal financial supervisory agency concerning the safety and soundness of this financial institution.

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## **Overall CRA Rating**

**Institution's CRA Rating:** This institution is rated Outstanding.

The major factors that support this rating include:

- The institution demonstrates a high level of CD loans, CD services, or qualified investment activity;
- The institution demonstrates occasional use of innovative or complex qualified investments, CD loans, and CD services; and
- The institution exhibits excellent responsiveness to credit and CD needs in its assessment area.

## Description of Institution

Modern Bank, NA (Modern) is a wholesale bank headquartered in New York, New York (NY). On November 2011, the OCC designated Modern as a wholesale bank. An institution so designated is evaluated pursuant to the community development (CD) test, which assesses a bank's record of meeting assessment area (AA) credit needs through CD loans, investments, and CD services.

As of the December 31, 2020, the bank had tier 1 capital of \$78 million and total assets of \$849 million. Net loans and leases were approximately \$701 million, representing 83 percent of total assets. Total deposits were \$571 million, or 67 percent of total assets. Commercial and Real Estate loans make up the majority of total net loans. Commercial loans account for \$444 million, which represent 63 percent of total net loans.

The bank's market area includes New York City, NY, Brooklyn, NY, Queens, NY and Bronx, NY. The bank's AA is located within the New York-Jersey City-White Plains, NY-NJ MSA. As of 2019, the bank had one full-service branch office located in New York, NY; the bank's Miami, Florida (FL) branch closed in late 2018. The Miami branch, which opened in 2015, to better serve Modern's international customers in the Miami area, closed due to the bank's departure from International Private Banking business. The Miami branch did not offer lending products. Modern's New York headquarters does not gather deposits from the local community or neighborhoods. Most recently the bank established a Loan Production Office (LPO) in Dallas, Texas that concentrates on commercial energy lending. The bank primarily offers tailored banking products and services to commercial clients in specific business segments.

Modern provides deposit-related banking services primarily to high net-worth individuals and commercial borrowers, as well as to a select set of international clients. The bank offers traditional bank products to both business and private banking clients, including traditional demand (checking), NOW, savings, money market, and time deposits, loan products on a secured basis and related deposit and loan services.

**Table 1: Financial Information (000s)**

	<b>Year-end 2018</b>	<b>Year-end 2019</b>	<b>Most Recent Quarter-end 12/31/2020</b>	<b>Average for Evaluation Period</b>
Tier 1 Capital	77,601	79,593	77,984	78,393
Total Income	33,755	33,161	31,975	32,964
Net Operating Income	4,204	3,005	2,623	3,277
Total Assets	769,539	791,832	849,228	803,533

Source: Consolidated Report of Condition and Income and bank reported data. \*\*Annualized data reported.

Aside from restrictions imposed by Modern's wholesale designation, scope of operations, and business strategy, there are no additional legal, financial, or other constraints impeding the bank's ability to help meet the credit needs in its AA.

## **Scope of the Examination**

### **Evaluation Period/Products Evaluated**

In evaluating the bank's performance under the CRA, we reviewed CD activities from February 21, 2018 through December 31, 2020. We reviewed the level and nature of qualified CD investments, lending, and services. At the prior evaluation dated February 20, 2018, we rated the bank as "Satisfactory".

For purposes of this evaluation, bank delineated assessment areas located within the same metropolitan statistical area (MSA), multistate metropolitan statistical area (MMSA), or combined statistical area (CSA) are combined and evaluated as a single assessment area. Similarly, bank delineated non-MSA assessment areas within the same state are combined and evaluated as a single area.

With an evaluation period end date of December 31, 2020, qualifying CD activities performed in response to the significant impact the coronavirus pandemic has had on economies across the United States were addressed in this evaluation. Bank qualifying activities have been appropriately considered in this evaluation.

The bank has adequately addressed the needs of its assessment area, and therefore, outside of assessment area qualified investments, CD loans, and services were considered in evaluating its performance.

## **Discriminatory or Other Illegal Credit Practices Review**

Pursuant to 12 C.F.R. §25.28(c) or §195.28(c), respectively, in determining a national bank's or federal savings association's (collectively, bank) CRA rating, the OCC considers evidence of discriminatory or other illegal credit practices in any geography by the bank, or in any assessment area by an affiliate whose loans have been considered as part of the bank's lending performance. As part of this evaluation process, the OCC consults with other federal agencies with responsibility for compliance with the relevant laws and regulations, including the U.S. Department of Justice, the U.S. Department of Housing and Urban Development, and the Bureau of Consumer Financial Protection, as applicable.

The OCC has not identified that this institution has engaged in discriminatory or other illegal credit practices that require consideration in this evaluation.

The OCC will consider any information that this institution engaged in discriminatory or other illegal credit practices, identified by or provided to the OCC before the end of the institution's next performance evaluation in that subsequent evaluation, even if the information concerns activities that occurred during the evaluation period addressed in this performance evaluation.

## Multistate Metropolitan Statistical Area Rating

### New York-Jersey City-White Plains, NY-NJ Assessment Area

#### CRA Rating for the New York-Jersey City-White Plains, NY-NJ MSA: Outstanding

The major factors that support this rating include:

- The institution demonstrates a high level of CD loans, CD services, and qualified investment activity in the New York-Jersey City-White Plains, NY-NJ MSA;
- The institution demonstrates occasional use of innovative or complex qualified investments, CD loans, and CD services in the New York-Jersey City-White Plains, NY-NJ MSA; and
- The institution exhibits excellent responsiveness to credit and CD needs in the New York-Jersey City-White Plains, NY-NJ MSA.

#### Description of the New York-Jersey City-White Plains, NY-NJ MSA

Modern Bank is located in the urban area of midtown Manhattan, New York, NY. Modern has designated the New York-Jersey City-White Plains, NY-NJ Metropolitan Division (MD) #35614 as its AA. The AA consists of all of Kings and New York County. Per the 2015 American Community Survey (ACS) data, the AA contained 1,049 census tracts. There are 129 low-income census tracts (12.30 percent), 317 moderate-income tracts (30.22 percent), 251 middle-income tracts (23.93 percent), and 323 upper-income tracts (30.79 percent). There were also 29 census tracts, for which the income designation was unknown. The total population of the AA is 4,224,766. The median family income is \$67,560. The AA consists of 896,060 families of which 32.5 percent are low-income families and 15.0 percent are moderate-income families. The AA meets the requirements of the regulation and does not arbitrarily exclude low- or moderate-income (LMI) geographies.

**Table 2: Assessment Area Description**

	<b>Number</b>	<b>Low</b>	<b>Moderate</b>	<b>Middle</b>	<b>Upper</b>
<b>Tracts</b>	1,049	12.3%	30.2%	23.9%	30.8%
<b>Families</b>	896,060	32.5%	15.0%	14.3%	38.3%
<b>Businesses</b>	549,181	7.7%	23.3%	15.3%	53.2%

Source: Demographic Data - American Community Survey, Dun & Bradstreet Data. \*Represents families by income level. \*\*Represents businesses by income level of census tract. \*\*\*Numbers may not add to 100% due to rounding.

According to the June 30, 2020 FDIC Summary of Deposit report, Modern’s deposit market share was 0.04 percent. The bank ranks 45 out of 100 banks in terms of deposits in the AA. The New York–Jersey City-White Plains, NY-NJ AA banking market is highly competitive. The deposit market is dominated by large multi-national institutions. Modern’s major competitors include JP Morgan Chase Bank, NA; the Bank of New York Mellon; HSBC Bank USA, NA; Goldman Sachs Bank, USA; Citibank, NA; and Bank of America, NA. These major competitors

have an established presence in the AA and provide strong competition with the bank for CD activities.

Top industries in the area providing the most employment are hospitals and national banks. Major employers include Montefiore Health System, Mount Sinai Health System, JPMorgan Chase & Co., and Bank of America.

According to the U.S. Bureau of Labor Statistics (BLS), there was a significant increase in the unemployment rate in the New York-Jersey City-White Plains, NY-NJ AA. The unemployment rate increased from 3.8 percent in January 2018 to 9.2 percent in December 2020, which was above the state of New York unemployment rate of 8.7 percent and slightly higher than the national average of 6.7 percent.

The December 2020 Moody's Analytics indicates the New York-Jersey City-White Plains, NY-NJ AA strengths include financial capital of the work, high per capita income, and limited exposure to manufacturing and strong international immigration. The weaknesses were high costs, including taxes, housing, office rents and energy, a rapidly aging infrastructure and deteriorating fiscal health amid the COVID-19 recession and population losses. Although, the economy is out of recession, joblessness remains high and payrolls are much farther below pre-COVID-19 levels than they are nationally. The report also indicates the AA faces a lengthy trek back to normalcy due to COVID-19 which has negatively impacted tourism, consumer spending, residential and commercial real estate.

As part of the CRA evaluation, the OCC reviewed information from two community contacts made within the bank's AA to determine local economic conditions and community needs. One community contact from the New York County was a 40-year-old non-profit organization that focuses their efforts on affordable housing, small business lending, and social services for LMI New York City residents. One community contact from the Brooklyn AA works to provide job readiness training to students with the aim of preparing individuals to enter the workforce in diverse career fields. The second community contact from the Brooklyn AA offers a variety of programs and resources with the purpose of enhancing opportunities for New York City residents. These contacts identified affordable housing, small business financing, first-time homebuyer programs, sustainable employment, and improving LMI access to banking as community needs.

According to the Federal Reserve Bank of New York's white paper published in December 2020, the COVID-19 pandemic has further exacerbated New York City's housing affordability and stability in both the residential and commercial arena. Given the increase in joblessness and recession the federal government will need to provide resources to private sector, public sector, and philanthropists who can play key roles in mitigating the crises related to affordable housing, evictions, and household financial stability.

Based on the housing value and the FFIEC Adjusted Median Family Income, there is a lack of affordability for a low-income individual or family to purchase a home. The 2015 U.S. Census data reported the weighted average median family income was \$79,300, while the average median housing cost is \$660,296. Within the New York AA, more than 32 percent of one's income is for housing. Due to the high costs, a 66 percent majority of households rent, compared

to the 24 percent owner-occupied units. The weighted average monthly gross rent is \$1,433 and 32 percent of monthly renter costs are greater than 30 percent of income. Vacancies are reported at 11 percent of housing units.

## **Conclusions About Performance**

### **Summary**

Overall, the bank's CRA performance is outstanding.

Based on a full-scope review of the New York-Jersey City-White Plains, NY-NJ MSA, the bank's performance is excellent. We considered the investment opportunities with direct benefit within the AA and the bank's capacity to address those needs.

Modern Bank provided an excellent level of qualified CD investments, loans, and services in relation to its capacity and opportunities. The bank provided qualifying investments and CD loans that were responsive to the identified needs of affordable housing and economic development.

- The bank demonstrates high levels of CD lending, CD services, and qualified investment activities. Current period investments, grants, and prior period investments totaled \$5.52 million and originated CD loans totaling \$117.36 million;
- The bank demonstrates occasional use of innovative or complex CD loans, CD services, and qualified investments; and
- The bank demonstrates excellent responsiveness to credit and community development needs in its AA, in particular to affordable housing needs. Investments included Mortgage Backed Securities (MBS), Small Business Investment Companies (SBICs), and other types of investments. Bank representatives also participated in several financial literacy workshops that were presented to LMI students in their AA.

### **Qualified Investments**

Qualified investments totaled \$5.52 million with current period investments of \$500 thousand, qualified grants of \$90 thousand, and outstanding prior period investments of \$4.93 million.

All qualified investments were made in and primarily benefited the bank's AA. These investments consisted of MBS and SBICs totaling \$1.33 million and \$4.1 million, respectively.

Modern Bank also provided qualified grants totaling approximately \$90 thousand to four qualified CD organizations that benefitted underserved communities and low-to-moderate income families the AA. These grants supported affordable housing, economic development, and community services. Many of the qualified organizations supported children in need, affordable housing for LMI families, and education for LMI students within the bank's AA.

The bank also has outstanding investments totaling \$4.93 million from prior periods. We considered the ongoing impact from investments made during and prior to the current evaluation period. The majority of these investments support the provision of affordable housing through MBS and SBICs, totaling \$1.33 million, and \$3.6 million, respectively.

The following table summarizes the bank’s investments, grants, and unfunded commitments inside the AA:

**Table 3: Qualified Investment Activity**

	<b>Benefits AA**</b>
<b>Originated Investments</b>	\$500,000
<b>Originated Grants</b>	\$90,000
<b>Prior-Period Investments that Remain Outstanding</b>	\$4,933,400
<b>Total Qualified Investments</b>	\$5,523,400
<b>Unfunded Commitments*</b>	\$0

\* “Unfunded Commitments” means legally binding investment commitments that are tracked and recorded by the bank’s financial reporting system.

\*\* Investments included in the Benefits AA column are located in the AA or in the broader statewide or regional area that includes the AA.

The following table measures the level of total qualified investment activity in terms of average allocated tier 1 capital and average total income over the evaluation period:

**Table 4: Qualified Investment Percentages**

	<b>Benefits AA (%)*</b>
<b>Total Investments/Average Tier 1 Capital</b>	7.04%
<b>Total Investments/Average Total Income</b>	16.75%
<b>Total Investments/Average Pass-Through Receivables</b>	0**

\* Investments included in the Benefits AA column are located in the AA or in the broader statewide or regional area that includes the AA.

\*\*Modern Bank does not carry any Pass-Through Receivables on their balance sheet.

Described below are some of the most significant qualified investments:

- A \$500,000 investment in a local SBIC that supports regional small businesses, which include small businesses in the AA;
- A \$30,000 donation to a community service organization that targets LMI students by providing enrichment learning and leadership development activities through school day and afterschool programs to middle school and high school students in underserved communities; and
- A \$27,000 donation to a community service organization that targets LMI children and families by providing early childhood programs, leadership education, and career programs to their community within the bank’s AA.

**CD Lending**

During the evaluation period, Modern originated 11 qualifying CD loans totaling \$17.35 million. All the CD loans that Modern originated provide affordable housing units to LMI individuals and families within the bank’s AA.

Modern bank also participated in the Paycheck Protection Program (PPP) lending program in 2020. The bank originated 131 loans totaling \$100 million in PPP loans. Of the total, 80 loans totaling \$47.8 million were originated in the bank’s AA and broader regional area. An additional 51 loans totaling \$52.2 million were originated outside the bank’s AA and were made nationwide.

Below are examples of CD loans originated during the evaluation period:

- Modern originated a \$3.75 million loan to refinance a 17-unit mixed-use property, which is located in a moderate-income census tract. All 16 residential units are being rented below median market rental rates;
- A \$2.30 million loan to finance the purchase of four mixed-use properties, which are located in a moderate-income census tract. These buildings provide 16 residential units, of which the majority are rented at below median market rental rates; and
- A \$1.35 million loan to finance the purchase of an 8-unit mixed-use property, which is located in a moderate-income census tract. This building provides 6 residential units, of which all units are rented at below median market rental rates.

**Table 5a: CD Lending Percentages**

	<b>Benefits AA (%)*</b>	<b>Outside AA (%)</b>
<b>Total CD Lending/Average Tier 1 Capital</b>	83.13%	66.57%
<b>Total CD Lending/Average Total Income</b>	1976.68%	1583.08%
<b>Total CD Lending/Average Pass-Through Receivables</b>	0**	0**

\* CD loans included in the Benefits AA column are located in the AA or in the broader statewide or regional area that includes the AA.

\*\*Modern Bank does not carry any Pass-Through Receivables on their balance sheet.

**CD Services**

Modern Bank employees exhibited adequate responsiveness to CD needs. Employees actively provided 122 hours of services to LMI students by developing and participating in annual financial literacy programs within their AA.

The Modern Bank Career Day/Financial Literacy Workshop, which was held annually at the bank’s NYC branch, allowed LMI students to have hands on banking and financial education by teaching them how to open and maintain checking and savings accounts and general fiscal

responsibility. Additionally, bank employees engaged the students in hands-on activities and dialogue which furthered their understanding of the multiple careers in the financial industry. Due to the hands-on nature of the workshop, the bank did not host in 2020 due to social distancing requirements and online school attendance of students. The bank has identified several additional ways to engage in additional workshops and outreach events for the next evaluation period.

**Table 6b: CD Service Activities**

<b>CD Service</b>	<b>Benefits AA*</b>
Community Services – Financial Literacy	122
Total Community Development Service Hours	122

\* CD services included in the Benefits AA column are located in the AA or in the broader statewide or regional area that includes the AA

## Appendix A: Summary of MMSA and State Ratings

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RATINGS		Modern Bank, N.A.
<b>Overall Bank:</b>		<b>Overall Bank Rating</b>
Modern Bank, National Association		Outstanding
<b>State/MMSA Name</b>		<b>State/MMSA Rating</b>
New York-Jersey City-White Plains, NY-NJ MSA		Outstanding

## Appendix B: Definitions and Common Abbreviations

The following terms and abbreviations may be used in this performance evaluation, including the CRA tables. The definitions are intended to provide the reader with a general understanding of the terms, not a strict legal definition.

**Affiliate:** Any company that controls, is controlled by, or is under common control with another company. A company is under common control with another company if the same company directly or indirectly controls both companies. For example, a bank subsidiary is controlled by the bank and is, therefore, an affiliate.

**Aggregate Lending (Aggt.):** The number of loans originated and purchased by all reporting lenders (HMDA or CRA) in specified income categories as a percentage of the aggregate number of loans originated and purchased by all reporting lenders in the assessment area.

**Census Tract (CT):** A small, relatively permanent statistical subdivision of a county delineated by a local committee of census data users for the purpose of presenting data. Census tracts nest within counties, and their boundaries normally follow visible features, but may follow legal geography boundaries and other non-visible features in some instances, Census tracts ideally contain about 4,000 people and 1,600 housing units.

**Combined Statistical Area (CSA):** A geographic entity consisting of two or more adjacent Core Based Statistical Areas with employment interchange measures of at least 15. An employment interchange measure is a measure of ties between two adjacent entities. The employment interchange measure is the sum of the percentage of workers living in the smaller entity who work in the larger entity and the percentage of employment in the smaller entity that is accounted for by workers who reside in the larger entity.

**Community Development (CD):** Affordable housing (including multifamily rental housing) for low- or moderate-income individuals; community services targeted to low- or moderate-income individuals; activities that promote economic development by financing businesses or farms that meet Small Business Administration Development Company or Small Business Investment Company programs size eligibility standards or have gross annual revenues of \$1 million or less; or activities that revitalize or stabilize low- or moderate-income geographies, distressed or underserved nonmetropolitan middle-income geographies, or designated disaster areas.

**Community Reinvestment Act (CRA):** the statute that requires the OCC to evaluate a bank's record of meeting the credit needs of its entire community, including LMI areas, consistent with the safe and sound operation of the bank, and to take this record into account when evaluating certain corporate applications filed by the bank.

**Consumer Loan(s):** A loan(s) to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. This definition includes the following categories: motor vehicle loans, credit card loans, other secured consumer loans, and other unsecured consumer loans.

**Family:** Includes a householder and one or more other persons living in the same household who are related to the householder by birth, marriage, or adoption. The number of family households always equals the number of families; however, a family household may also include non-relatives living with the family. Families are classified by type as either a married-couple family or other family, which is further classified into ‘male householder’ (a family with a male householder and no wife present) or ‘female householder’ (a family with a female householder and no husband present).

**Full-Scope Review:** Performance under the Lending, Investment, and Service Tests is analyzed considering performance context, quantitative factors (e.g., geographic distribution, borrower distribution, and total number and dollar amount of investments), and qualitative factors (e.g., innovativeness, complexity, and responsiveness).

**Geography:** A census tract delineated by the United States Bureau of the Census in the most recent decennial census.

**Home Mortgage Disclosure Act (HMDA):** The statute that requires certain mortgage lenders that conduct business or have banking offices in a metropolitan statistical area to file annual summary reports of their mortgage lending activity. The reports include such data as the race, gender, and the income of applicants, the amount of loan requested, the disposition of the application (e.g., approved, denied, and withdrawn), the lien status of the collateral, any requests for preapproval, and loans for manufactured housing.

**Home Mortgage Loans:** A closed-end mortgage loan or an open-end line of credit as these terms are defined under §1003.2 of this title, and that is not an excluded transaction under §1003.3(c)(1) through (10) and (13) of this title.

**Household:** Includes all persons occupying a housing unit. Persons not living in households are classified as living in group quarters. In 100 percent tabulations, the count of households always equals the count of occupied housing units.

**Limited-Scope Review:** Performance under the Lending, Investment, and Service Tests is analyzed using only quantitative factors (e.g., geographic distribution, borrower distribution, total number and dollar amount of investments, and branch distribution).

**Low-Income Individual:** Individual income that is less than 50 percent of the area median income.

**Low Income Geography:** A census tract with a median family income that is less than 50 percent.

**Market Share:** The number of loans originated and purchased by the institution as a percentage of the aggregate number of loans originated and purchased by all reporting lenders in the assessment area.

**Median Family Income (MFI):** The median income determined by the U.S. Census Bureau every five years and used to determine the income level category of geographies. The median is the point at which half of the families have income above, and half below, a range of incomes. Also, the median income determined by the Federal Financial Institutions Examination Council (FFIEC) annually that is used to determine the income level category of individuals. For any given area, the median is the point at which half of the families have income above, and half below, a range of incomes.

**Metropolitan Division:** As defined by Office of Management and Budget, a county or group of counties within a Core Based Statistical Area that contains an urbanized population of at least 2.5 million. A Metropolitan Division consists of one or more main/secondary counties that represent an employment center or centers, plus adjacent counties associated with the main/secondary county or counties through commuting ties.

**Metropolitan Statistical Area:** An area, defined by the Office of Management and Budget, as a core based statistical area associated with at least one urbanized area that has a population of at least 50,000. The Metropolitan Statistical Area comprises the central county or counties containing the core, plus adjacent outlying counties having a high degree of social and economic integration with the central county or counties as measured through commuting.

**Middle-Income:** Individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 percent and less than 120 percent, in the case of a geography

**Moderate-Income:** Individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 percent and less than 80 percent, in the case of a geography.

**Multifamily:** Refers to a residential structure that contains five or more units.

**Owner-Occupied Units:** Includes units occupied by the owner or co-owner, even if the unit has not been fully paid for or is mortgaged.

**Qualified Investment:** A qualified investment is defined as any lawful investment, deposit, membership share, or grant that has as its primary purpose CD.

**Rating Area:** A rated area is a state or multi-state metropolitan statistical area. For an institution with domestic branches in only one state, the institution's CRA rating would be the state rating. If an institution maintains domestic branches in more than one state, the institution will receive a rating for each state in which those branches are located. If an institution maintains domestic branches in two or more states within a multi-state metropolitan statistical area, the institution will receive a rating for the multi-state metropolitan statistical area.

**Small Loan(s) to Business(es):** A loan included in 'loans to small businesses' as defined in the Consolidated Report of Condition and Income (Call Report) instructions. These loans have

original amounts of \$1 million or less and typically are either secured by nonfarm or nonresidential real estate or are classified as commercial and industrial loans.

**Small Loan(s) to Farm(s):** A loan included in ‘loans to small farms’ as defined in the instructions for preparation of the Consolidated Report of Condition and Income (Call Report). These loans have original amounts of \$500,000 or less and are either secured by farmland, or are classified as loans to finance agricultural production and other loans to farmers.

**Tier 1 Capital:** The total of common shareholders’ equity, perpetual preferred shareholders’ equity with non-cumulative dividends, retained earnings and minority interests in the equity accounts of consolidated subsidiaries.

**Upper-Income:** Individual income that is at least 120 percent of the area median income, or a median family income that is at least 120 percent, in the case of a geography.