

96-32

**DEPARTMENT OF THE TREASURY  
Office of the Comptroller of the Currency**

**12 CFR Part 25**

**[Docket No. 96-XX]**

**RIN 1557-AB32**

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 228**

**[Regulation BB; Docket No. R-0822]**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR Part 345**

**RIN 3064-AB27**

**DEPARTMENT OF THE TREASURY  
Office of Thrift Supervision**

**12 CFR Part 563e**

**[Docket No. 96-XX]**

**RIN 1550-AA96**

**Community Reinvestment Act Regulations**

**AGENCIES:** Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS).

**ACTION:** Joint final rule; correcting amendment.

**SUMMARY:** The OCC, Board, FDIC, and OTS (collectively, the agencies) are correcting

their joint final rule concerning the Community Reinvestment Act (CRA), which was published on May 4, 1995, and amended by a subsequent joint final rule published on December 20, 1995. This document corrects a cross-reference to Small Business Administration regulations, which were recently amended. This correcting amendment makes no substantive changes in the requirements of the current regulations.

**EFFECTIVE DATE:** [Insert date of publication in the Federal Register.]

**FOR FURTHER INFORMATION CONTACT:**

**OCC:** Bert A. Otto, Acting Deputy Comptroller for Compliance, (202) 874-5216; or Matthew Roberts, Director, Community and Consumer Law Division, (202) 874-5750, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

**BOARD:** Glenn E. Loney, Associate Director, Division of Consumer and Community Affairs, (202) 452-3585; Robert deV. Frierson, Assistant General Counsel, Legal Division, (202) 452-3711; or Leonard N. Chanin, Managing Counsel, Division of Consumer and Community Affairs, (202) 452-3667, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

**FDIC:** Bobbie Jean Norris, Chief, Fair Lending Section, Division of Compliance and Consumer Affairs, (202) 942-3090; Robert W. Mooney, Fair Lending Specialist, Division of Compliance and Consumer Affairs, (202) 942-3092; or Ann Hume Loikow, Counsel, Regulation and Legislation Section, Legal Division, (202) 898-3796, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

**OTS:** Timothy R. Burniston, Director, Compliance Policy, (202) 906-5629; Theresa A.

Stark, Project Manager, Compliance Policy, (202) 906-7054; or John Flannery, Attorney, Regulations and Legislation Division, Chief Counsel's Office, (202) 906-7293, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

## **SUPPLEMENTARY INFORMATION:**

### **Introduction**

The agencies jointly are amending their regulations implementing the CRA (12 U.S.C. 2901 et seq.). This joint final rule makes a technical correction to the agencies' joint CRA regulations, 12 CFR parts 25, 228, 345, and 563e. Those regulations establish the framework and criteria by which the agencies assess an institution's record of helping to meet the credit needs of its community, including low- and moderate-income neighborhoods, consistent with safe and sound operations, and provide that the agencies will take those assessments into account in reviewing certain applications.

### **Background**

Last year, the agencies revised their CRA regulations. They adopted a joint final rule, which was published on May 4, 1995 (60 FR 22156). The agencies published a correction and clarification to the joint final rule on December 20, 1995 (60 FR 66048).

### **Need for Correction to the Final Rule**

The agencies' joint final rule, as amended, defines "community development" to mean activities that promote economic development by financing businesses or farms that meet the size eligibility standards of 13 CFR 121.802(a)(2) and (3). These size eligibility standards refer to the Small Business Administration's size limitations for Development Company and Small Business Investment Company (SBIC) programs. See 60 FR 22159

(May 4, 1995) and 60 FR 66049 (Dec. 20, 1995).

On January 31, 1996, the Small Business Administration amended its regulations. See 61 FR 3280. Effective March 1, 1996, the size limitations for Development Company and SBIC programs are described at 13 CFR 121.301(b) and (c). 61 FR 3294. Therefore, it is necessary to amend the agencies' CRA regulations to reflect this change.

The agencies are amending their regulations to mention by name the SBA's Development Company and SBIC programs, as well as to refer readers to 13 CFR 121.301. The agencies believe that reference both to the programs by name and to the SBA's regulation by section will more clearly describe the size standards to which the agencies are referring while continuing to direct interested parties to the size standards' general location in the SBA's regulations.

The agencies find that notice and public procedure concerning this correcting amendment are impracticable, unnecessary, and contrary to the public interest under 5 U.S.C. 553(b)(B). The agencies make this finding because these correcting amendments involve only technical corrections to the agencies' CRA regulations and make no substantive changes to the agencies' CRA regulations.

In addition, under 5 U.S.C. 553(d)(3), the agencies have determined to make this correcting amendment effective with less than 30 days prior publication. The agencies find that there is good cause for shortened notice due to the minor nature of the changes. Furthermore, the SBA's amended regulation became effective March 1, 1996 (61 FR 3280), thereby making the current cross-references in the agencies' CRA regulations erroneous as of that date.

## **Regulatory Flexibility Act**

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OCC, Board, FDIC, and OTS hereby certify that this joint final rule will not have a significant economic impact on a substantial number of small entities. The agencies expect that this joint final rule will not have significant secondary or incidental effects on a substantial number of small entities, or create any additional burden on small entities. This joint final rule merely makes a technical correction to a cross-reference in the rules already adopted by the agencies and will not increase burden on institutions. Accordingly, a regulatory flexibility analysis is not required.

## **Paperwork Reduction Act of 1995**

There are no collection of information requirements in this joint final rule.

## **Executive Order 12866**

**OCC and OTS:** The OCC and the OTS have determined that this joint final rule is not a significant regulatory action as defined in Executive Order 12866.

## **Unfunded Mandates Reform Act of 1995**

**OCC and OTS:** Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104-4, 109 Stat. 48 (1995) (Unfunded Mandates Act), requires that covered agencies prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires covered agencies to identify and consider a reasonable number of regulatory alternatives before

promulgating a rule. As discussed in the preamble, this joint final rule amends the agencies' CRA regulations by making one technical correction. Therefore, the OCC and the OTS have determined that this joint final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of more than \$100 million in any one year. Accordingly, the OCC and the OTS have not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

### **List of Subjects**

#### **12 CFR Part 25**

Community development, Credit, Investments, National banks, Reporting and recordkeeping requirements.

#### **12 CFR Part 228**

Banks, banking, Community development, Credit, Federal Reserve System, Investments, Reporting and recordkeeping requirements.

#### **12 CFR Part 345**

Banks, banking, Community development, Credit, Investments, Reporting and recordkeeping requirements.

#### **12 CFR Part 563e**

Community development, Credit, Investments, Reporting and recordkeeping requirements, Savings associations.

## **OFFICE OF THE COMPTROLLER OF THE CURRENCY**

### **12 CFR CHAPTER I**

For the reasons discussed in the joint preamble, 12 CFR part 25 is amended as

follows:

**PART 25--[AMENDED]**

1. The authority citation for part 25 continues to read as follows:

**Authority:** 12 U.S.C. 21, 22, 26, 27, 30, 36, 93a, 161, 215, 215a, 481, 1814, 1816, 1828(c), and 2901 through 2907.

**§ 25.12 [Amended]**

2. In § 25.12(h)(3), the cross reference “13 CFR 121.802(a)(2) and (3)” is revised to read “the Small Business Administration’s Development Company or Small Business Investment Company programs (13 CFR 121.301)”.

**[This signature page relates to the joint final rule entitled “Community Reinvestment Act Regulations.”]**

\_\_\_\_\_  
**Eugene A. Ludwig**  
**Comptroller of the Currency**

\_\_\_\_\_  
**Date**

# FEDERAL RESERVE SYSTEM

## 12 CFR CHAPTER II

For the reasons discussed in the joint preamble, 12 CFR part 228 is amended as follows:

### **PART 228--[AMENDED]**

1. The authority citation for part 228 continues to read as follows:

**Authority:** 12 U.S.C. 321, 325, 1828(c), 1842, 1843, 1844, and 2901 et seq.

### **§ 228.12 [Amended]**

2. In § 228.12(h)(3), the cross reference “13 CFR 121.802(a)(2) and (3)” is revised to read “the Small Business Administration’s Development Company or Small Business Investment Company programs (13 CFR 121.301)”.

**[This signature page relates to the joint final rule entitled “Community Reinvestment Act Regulations.”]**

By order of the Board of Governors of the Federal Reserve System, \_\_\_\_\_.  
Date

\_\_\_\_\_  
William W. Wiles,  
Secretary of the Board

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**12 CFR CHAPTER III**

For the reasons discussed in the joint preamble, 12 CFR part 345 is amended as follows:

**PART 345--[AMENDED]**

1. The authority citation for part 345 continues to read as follows:

**Authority:** 12 U.S.C. 1814-1817, 1819-1820, 1828, 1831u and 2901-2907, 3103-3104, and 3108(a).

**§ 345.12 [Amended]**

2. In § 345.12(h)(3), the cross reference “13 CFR 121.802(a)(2) and (3)” is revised to read “the Small Business Administration’s Development Company or Small Business Investment Company programs (13 CFR 121.301)”.

**[This signature page relates to the joint final rule entitled “Community Reinvestment Act Regulations.”]**

By order of the Board of Directors of the Federal Deposit Insurance Corporation.

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Jerry L. Langley**  
**Executive Secretary**

## OFFICE OF THRIFT SUPERVISION

### 12 CFR CHAPTER V

For the reasons discussed in the joint preamble, 12 CFR part 563e is amended as follows:

#### **PART 563e--[AMENDED]**

1. The authority citation for part 563e continues to read as follows:

**Authority:** 12 U.S.C. 1462a, 1463, 1464, 1467a, 1814, 1816, 1828(c), and 2901 through 2907.

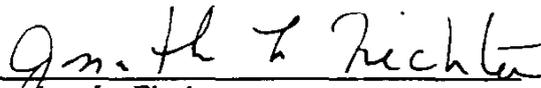
#### **§ 563e.12 [Amended]**

2. In § 563e.12(g)(3), the cross reference “13 CFR 121.802(a)(2) and (3)” is revised to read “the Small Business Administration’s Development Company or Small Business Investment Company programs (13 CFR 121.301)”.

[This signature page relates to the joint final rule entitled "Community Reinvestment Act Regulations."]

Dated: April 5, 1996

By the Office of Thrift Supervision.

  
Jonathan L. Fiechter  
Acting Director

**BILLING CODES:**

OCC: 4810-33-P (25%)  
Board: 6210-01-P (25%)  
FDIC: 6714-01-P (25%)  
OTS: 6720-01-P (25%)