

**Decision of the
Supervision Appeals Review Committee
In the Matter of * * *Case No. 2025-01**

I. Summary

In this appeal, * * * (Bank) appeals its composite “Needs to Improve” rating and “Needs to Improve” lending test rating under the Community Reinvestment Act (CRA), and requests that the Committee upgrade the lending test rating and provide a composite rating of “Satisfactory.”

After consideration of the timely filed written submissions of the parties and the record of this case, and following the deliberative meeting of this Committee, the Committee finds in favor of the Bank and upgrades the lending test rating to “Low Satisfactory” and composite CRA rating to “Satisfactory.”

II. Procedural History

This appeal concerns a determination made by the FDIC’s * * * Regional Office during a [Date], Consumer Compliance and CRA examination of the Bank. Examiners assigned a composite “Needs to Improve” rating and “Needs to Improve” lending test rating for the Bank under the CRA.

The Bank filed a request for review appealing both CRA ratings with the Director of the Division of Depositor and Consumer Protection (DCP). The Bank requested the lending test rating be changed to “Low Satisfactory” and the composite CRA rating be changed to “Satisfactory.”

In a decision dated August 15, 2025, the Division Director upheld the lending test rating and the composite CRA rating.¹ The Bank timely filed an appeal with this Committee, which met on December 2, 2025, to hear oral presentations from the parties and consider the appeal.

In accordance with the FDIC’s Guidelines for Appeals of Material Supervisory Determinations (Guidelines),² the Committee reviewed the appeal for consistency with the policies, practices, and mission of the FDIC, and the reasonableness of, and the support offered for, the positions of the parties. Under the Guidelines, the burden of proof rests with the Bank.

¹ The * * * Region revised the Bank’s CRA Performance Evaluation (PE) to reflect certain changes based on the Division Director’s decision.

² 87 Fed. Reg. 77112 (Dec. 16, 2022). See also <https://www.fdic.gov/resources/regulations/appeals-of-material-supervisory-determination>.

III. Community Reinvestment Act

The CRA is intended to encourage depository institutions to help meet the credit needs of the communities in which they operate, including low- and moderate-income (LMI) neighborhoods, consistent with safe and sound banking operations. The federal banking agencies have each adopted implementing regulations and have issued, through the Federal Financial Institutions Examination Council, CRA examination procedures.³

CRA examination procedures vary based upon the asset size of the institution. The Bank, which had total assets of * * * as of December 31, 2023, was evaluated as a large institution under the regulations implementing the CRA. For such institutions, the FDIC applies a lending test, an investment test, and a service test.⁴ The FDIC applies the tests in light of a bank's performance context, which includes the bank's product offerings, business strategy, past performance, and the performance of similarly situated lenders, among other factors.⁵

Lending Test

The lending test, which is the subject of the Bank's appeal, evaluates a bank's record of helping to meet the credit needs in its assessment area through its lending activities by considering a bank's home mortgage, small business, small farm, and community development (CD) lending.⁶ For each loan type, the FDIC evaluates lending performance based on five criteria:

1. Lending activity, based on the number and amount of a bank's loans of each type in an assessment area;⁷
2. Geographic distribution, based on the geographic distribution of a bank's loans;⁸
3. Borrower characteristics, including the distribution of loans;⁹
4. CD lending, including the number and amount of CD loans and their complexity and innovativeness;¹⁰ and
5. Innovative or flexible lending practices that are used in a safe and sound manner to address the credit needs of low- or moderate-income individuals or geographies.¹¹

³ 12 C.F.R. Part 345 (2024).

⁴ 12 C.F.R. 345.21(a)(1).

⁵ 12 C.F.R. 345.21(b)(3), (5).

⁶ 12 C.F.R. 345.22(a)(1). Consideration is given to loan originations and purchases, and the FDIC will consider any other loan data a bank may choose to provide, including data on loans outstanding, commitments, and letters of credit. 12 C.F.R. 345.21(a)(2).

⁷ 12 C.F.R. 345.22(b)(1).

⁸ 12 C.F.R. 345.22(b)(2). Specifically, the FDIC considers the proportion of the bank's lending in its assessment area(s); the dispersion of lending in the bank's assessment area(s); and the number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the bank's assessment area(s). 12 C.F.R. 345(b)(2)(i)-(iii).

⁹ 12 C.F.R. 345.22(b)(3).

¹⁰ 12 C.F.R. 345.22(b)(4).

¹¹ 12 C.F.R. 345.22(b)(5).

The FDIC compares a bank’s lending to the aggregate lending of other lenders that report data pursuant to the Home Mortgage Disclosure Act (HMDA) and CRA and operate within each assessment area.

In connection with the lending test, the FDIC assigns one of five ratings: “Outstanding,” “High Satisfactory,” “Low Satisfactory,” “Needs to Improve,” or “Substantial Noncompliance.”¹²

Composite CRA Rating

In assessing the Bank’s overall performance under the CRA, the FDIC assigns one of four ratings: “Outstanding,” “Satisfactory,” “Needs to Improve,” or “Substantial Noncompliance.”¹³ To receive a “Satisfactory” overall rating, a large institution must have a rating of at least “Low Satisfactory” on the lending test.¹⁴

IV. Examination Findings

The Bank’s CRA performance was evaluated in * * * assessment areas across * * * States * * * and one multistate metropolitan statistical area (MSA). Consistent with the Bank’s operations in these assessment areas, the Bank’s performance in [State] contributed the greatest weight to the overall conclusions for the CRA examination.

Examiners determined the Bank’s primary product lines were home mortgage and small business loans. The Bank is a HMDA and CRA reporter. Therefore, examiners analyzed the Bank’s reported home mortgage and small business loans from 2020 to 2023. The Bank’s primary product during this evaluation period was home mortgage lending, which contributed the most weight to the lending test conclusions in all assessment areas.

The Bank was rated “Needs to Improve” under the lending test, which resulted in a composite CRA rating of “Needs to Improve.” The PE explains that the lending test rating was primarily based upon the Bank’s poor geographic distribution (lending in LMI census tracts) and borrower profile performance (lending to LMI borrowers and small businesses). Examiners concluded that the Bank exhibited a poor record of serving the credit needs of the most economically disadvantaged areas of its assessment areas, low-income individuals, and very small businesses.

V. Parties’ Positions

Bank’s Position

Throughout the evaluation period, the Bank was a portfolio lender that retained the home mortgage loans that it originated. The Bank argues that it is therefore inappropriate to compare its lending performance against aggregate lending by all lenders in the assessment area(s).¹⁵ The

¹² 12 C.F.R. Part 345, Appx. A(b)(1).

¹³ 12 C.F.R. 345.21(c).

¹⁴ 12 C.F.R. 345.28(b)(3).

¹⁵ Bank Appeal 4-5 (Sept. 15, 2025).

Bank maintains that DCP should have excluded home mortgage loans purchased by government-sponsored enterprises in addition to the government loans that were excluded.¹⁶ The Bank argues that its own custom analyses excluding such loans align with interagency and FDIC guidance regarding consideration of similarly situated lenders.¹⁷

Second, the Bank maintains that the FDIC did not adequately consider the Bank's strong CD lending throughout the evaluation period.¹⁸ The Bank states that its CD lending was robust throughout the evaluation period and led to the creation of more than * * * affordable housing units that helped meet a demonstrated community need. The Bank argues that its strong CD lending compensated for weakness in its retail lending performance.

Third, the Bank argues that DCP did not adequately consider important performance context, including the Bank's origination of Paycheck Protection Program (PPP) loans totaling nearly * * *, and approval of * * *[small business] loans totaling * * * in March and April of 2020.¹⁹ The Bank states that DCP did not consider that the evaluation period was distorted by the extraordinary circumstances of the COVID-19 pandemic or the effect of rising interest rates on the Bank as a portfolio lender and on its customers.²⁰

Fourth, the Bank argues that DCP should have considered CD activities by [Bank 2], with which the Bank merged on [Date], before the end of the CRA evaluation period.²¹ The Bank notes that there is precedent for considering an acquired lender's CRA lending activity.²²

DCP's Position

DCP argues that there is no precedent for adjusting the aggregate in the manner proposed by the Bank.²³ DCP acknowledges that in certain circumstances, examiners may conduct supplemental analyses, such as analyses focused on certain loan types. DCP maintains that the examiners' analysis of the Bank's lending performance excluding government loans from the aggregate group did not change any of the conclusions.

DCP acknowledges that the Bank had relatively high CD lending performance in some assessment areas, but concludes that the Bank was not a leader in CD lending.²⁴ DCP stated that other banks were able to make higher levels of CD loans and perform better in LMI areas. Accordingly, DCP determined that the Bank's CD lending was not strong enough to compensate for areas that had both poor geographic distribution and borrower profile performance.

¹⁶ Bank Appeal 5-6

¹⁷ Bank Appeal 5.

¹⁸ Bank Appeal 8.

¹⁹ Bank Appeal 9.

²⁰ Bank Appeal 10.

²¹ Bank Appeal 10.

²² Bank Appeal 11.

²³ DCP Memorandum 7 (Oct. 15, 2025).

²⁴ DCP Memorandum 10-11.

DCP maintains that the PE appropriately considered performance context.²⁵ DCP states that the vast majority of lenders, including other portfolio-only lenders, impacted by the pandemic were able to achieve “Satisfactory” lending test ratings. DCP recognizes the Bank’s PPP lending, but explains that small business loans receive lower weighting than home mortgage loans under the lending test, given that the Bank was primarily a real estate mortgage lender. DCP states that the Bank’s lending performance declined with respect to geographic distribution and borrower profile.²⁶

DCP states that, with respect to consideration of activities of an acquired institution, the general practice has been to not evaluate activities or operations from an acquired institution for CRA purposes.²⁷

VI. Committee’s Findings

Lending Test

The Bank’s CD lending performance, properly contextualized, supports a “Low Satisfactory” rating on the lending test.

The Committee appreciates the Bank’s effort to thoughtfully and thoroughly develop a proposed custom aggregate group against which it believes it should be compared for purposes of the PE. The Committee also recognizes the Bank’s unique business model as a portfolio lender that only offered conventional loan products and that the CRA regulations and procedures could be applied in a way that insufficiently accounts for the distinct performance context of a portfolio lender that does not offer the same low-down-payment or government subsidized products driving the aggregate benchmarks.²⁸ Although allowing the Bank to be compared to a custom aggregate group – in this case, banks with total assets between * * * and * * * that focused on conventional loan products and excluding government-insured or government-guaranteed loans or loans purchased by government-sponsored enterprises – may not be prohibited by the regulations implementing the CRA *per se*, allowing such an approach would depart from the way the banking agencies historically have applied such regulations, may set a new precedent for CRA evaluations, and may present practical difficulties in determining which lenders to include in a given peer group.

However, even without comparing the Bank’s performance to its proposed custom aggregate group, the Committee believes that the record establishes that the Bank’s CD lending was strong overall, including in the * * * MSA. Among other things, the Bank’s CD loans increased significantly from the previous evaluation, from * * * million to * * * million in CD loans in its

²⁵ DCP Memorandum 12.

²⁶ DCP Memorandum 13.

²⁷ DCP Memorandum 14.

²⁸ In particular, in this case, it appears the Bank faced challenges managing safety and soundness considerations as a portfolio lender in a rapidly rising inflationary environment while aiming to meet the credit needs of the communities in which it operates.

assessment areas.²⁹ In the *** MSA assessment area, which represents over *** of the Bank’s deposits in [State], the Bank increased its CD lending from *** loans totaling *** million during the last CRA evaluation period to *** loans totaling *** million during the current evaluation, which the PE described as a “relatively high level.”³⁰ In addition, the Committee recognizes the positive impact of the Bank’s CD lending on the availability of affordable housing and notes that in the *** MSA assessment area, *** million of these CD loans created nearly *** affordable housing units, *** of which were in LMI census tracts, and in the *** MSA assessment area, *** million of these CD loans created approximately *** affordable housing units, *** of which were in LMI census tracts.³¹

The CRA regulations provide rating flexibility to address cases where performance is mixed. The regulations state that “[a] bank’s performance need not fit each aspect of a particular rating profile in order to receive that rating, and exceptionally strong performance with respect to some aspects may compensate for weak performance in others.”³² With respect to the lending test, the PE generally states that the Bank’s performance was adequate with respect to: responsiveness to credit needs in its assessment areas and lending in its assessment areas, use of innovative or flexible lending, and level of CD lending, consistent with a “Low Satisfactory” rating.³³ The CRA PE characterizes lending performance for the remaining rating factors as poor.³⁴ The Committee believes that, on balance, the record demonstrates a strong level of engagement in CD activities that reflects improvement over past performance and supports adjusting the lending test rating from “Needs to Improve” to “Low Satisfactory.”³⁵

Although DCP’s decision did not include CD lending by [Bank 2], and the Committee similarly does not rely on such lending, the Committee notes that the merger was announced well before the examination began and that clarification on how the CRA-related activities of [Bank 2] would have been considered (or not considered) as part of the Bank’s PE would have been helpful. The Committee encourages the FDIC to memorialize its policy in writing regarding how an acquired institution’s CRA activities will be considered in the acquiring institution’s CRA rating, especially given the uneven treatment of such activities in past CRA evaluations.

²⁹ CRA PE [page]. A bank’s past performance is a performance context consideration. 12 C.F.R. 345.21(b)(5).

³⁰ CRA PE [page]. Under the regulations implementing the CRA, a “relatively high level” of CD loans is consistent with a “High Satisfactory” rating on the lending test. 12 C.F.R. Part 345, Appx. A(b)(1)(ii).

³¹ Bank Appeal Confidential Exhibit A 12, 16.

³² 12 C.F.R. Part 345, Appx. A(a)(2). The Interagency Questions and Answers Regarding Community Reinvestment (Interagency Q and A) echo this provision. 81 Fed. Reg. 48506, 48555-48556 (Jul. 25, 2016), Appendix A (stating that “[an] institution may compensate for . . . weak performance by exceptionally strong performance in community development lending in its assessment area(s) or a broader statewide or regional area that includes its assessment area(s).”).

³³ CRA PE [page]. See 12 C.F.R. Part 345, Appx. A(b)(1)(iii) (establishing seven rating factors for the lending test).

³⁴ The remaining factors relate to geographic distribution, borrower distribution, and serving the credit needs of highly economically disadvantaged areas in assessment area(s), low-income individuals, or very small businesses. 12 C.F.R. Part 345, Appx. A(b)(1)(iii).

³⁵ See Interagency Q and A § .22(b)(4)–2 (stating that “strong community development lending may compensate for weak retail lending performance.”).

The Committee also notes that discussing HMDA data anomalies in CRA PEs would be beneficial, especially where DCP relies on HMDA data in finding that a bank’s mortgage lending needs to improve.³⁶

Overall Rating

The Committee has determined that the Bank should be rated “Low Satisfactory” on the lending test. Given the upgraded rating on the lending test, along with the existing ratings of “High Satisfactory” on both the investment test and service test, the overall rating is also being upgraded to “Satisfactory.”³⁷

VII. Conclusion

For the reasons stated above, the Committee grants the Bank’s appeal.

By direction of the Supervision Appeals Review Committee of the FDIC, dated January 16, 2026.

³⁶ In the * * * MSA assessment area, the percentage of unavailable HMDA data regarding borrower income was much higher in * * * than in * * * and the evaluated part of * * *. CRA PE [page], Table I—Distribution of Home Mortgage Loans by Borrower Income Level. The HMDA regulation permits a creditor to report borrower income as unavailable in certain circumstances, for example when the applicant is not a natural person or a covered loan is secured by a multifamily dwelling. See 12 C.F.R. Part 1003, Supplement I—Official Interpretations, comments 4(a)(10)(iii)-7, -8.

³⁷ During its December 2, 2025, oral presentation, the Bank represented that, during the past * * * years, only * * * bank with total assets of more than * * * received an overall “Needs to Improve” rating (other than banks with a discrimination or illegal credit practice driving the rating). Given the totality of the record – including the Bank’s CD lending, “High Satisfactory” ratings on the investment test and service test during the evaluation period, and history of overall “Satisfactory” CRA ratings – it is difficult to conclude that the Bank should be treated similarly.