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Josh Silver

Richard D. Marsico
New York Law School

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JOSH SILVER AND RICHARD MARSICO

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Regulations: The Continuing Importance of
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ABOUT THE AUTHORS: Josh Silver is Vice President of Research and Policy at the National Community Reinvestment Coalition. I wish to thank Jamie Wolf, senior research analyst for the National Community Reinvestment Coalition, for her work on this project. Richard Marsico is professor of law and director at the Justice Action Center, New York Law School. I wish to thank New York Law School for its generous support of this work. I also wish to thank my student research assistants, Ruth Uselton, Heather Webb, Randall Steketee, Veronica Frosen, and Thomas Liou.

INTRODUCTION

In 2004 and 2005, the four federal banking regulatory agencies that enforce the Community Reinvestment Act¹ ("CRA") amended their regulations that implement the CRA.² Up until then, these four agencies' separate CRA regulations were substantially identical. However, although the Fed, OCC, and FDIC made virtually identical changes to their CRA regulations, the Office of Thrift Supervision's ("OTS") changes were different. Specifically, the Fed, OCC, and FDIC raised the asset threshold for classifying a bank as "small" for CRA examination purposes and created a new category, intermediate small bank, and a new CRA examination for those banks.³ The OTS also raised the threshold for eligibility to be classified as a small thrift, but it did not create a new classification.⁴ In addition, the OTS also allowed large thrifts to design their own CRA examinations.⁵

Community groups were concerned about the impact these changes would have on bank and thrift CRA performance. In particular, they were concerned that bank and thrift community development ("CD") lending and investment and the provision of bank branches and other banking services such as ATMs in low- and moderate-income ("LMI") neighborhoods, would decline.⁶

Following the adoption of the CRA regulatory amendments in 2004 and 2005, one of the authors of this article proposed to study the effect, if any, of the amendments. The National Community Reinvestment Coalition ("NCRC") and the Economic Justice Project of the Justice Action Center at New York Law School subsequently conducted the research.⁷ This article presents the results.

Part I of this article provides an overview of the relevant provisions of the CRA statute and regulations and describes the 2004–2005 amendments to the CRA regulations. Part II describes the study's findings about the OTS's changes to its large thrift CRA exams. Part III describes the study's findings regarding the amend-

1. 12 U.S.C. §§ 2901–2908 (2006).

2. The four federal banking regulatory agencies and the banks they regulate are: (i) the Office of the Comptroller of the Currency ("OCC") regulates national banks; (ii) the Board of Governors of the Federal Reserve System (the "Fed") regulates state-chartered banks that are members of the Federal Reserve System; (iii) the Federal Deposit Insurance Corporation ("FDIC") regulates state-chartered banks and savings banks that are not members of the Federal Reserve System; (iv) the Office of Thrift Supervision ("OTS") regulates savings associations whose deposits are insured by the FDIC. 12 U.S.C. § 2902(1)(A)–(C) (2006). The four federal banking agencies will be referred to collectively as the "federal banking agencies" or "the agencies."

3. *See infra* Part I.C.2.

4. *See infra* Part I.C.1.

5. *See infra* Part I.C.1.

6. Most of the concerns were expressed at the time the changes were proposed. NCRC's letters exemplify the concerns. *See infra* text accompanying notes 47–49.

7. The National Community Reinvestment Coalition is an association of more than 600 community-based organizations that promotes access to basic banking services, including credit and savings, to create and sustain affordable housing, job development, and vibrant communities for America's working families. *See generally* National Community Reinvestment Coalition, <http://www.ncrc.org> (last visited Oct. 10, 2008). The Economic Justice Project promotes community development in traditionally underserved communities primarily through research reports. *See generally* Economic Justice Project, www.nyls.edu/ejp (last visited Oct. 1, 2008).

ments the Fed, OCC, and FDIC implemented. In summary, the study found that the standards that the federal banking agencies employ in examining banks for CRA compliance and the information they provide in the CRA examination reports are essential to ensuring that banks and thrifts meet the credit needs of their communities.

Regarding the changes the OTS made, the study found that large thrift CD lending and the number of their branches in LMI neighborhoods declined after the OTS adopted the 2004–2005 amendments. The study also found that large thrifts generally elected to decrease the importance of CD lending and investment and provision of banking services on their CRA exams when they performed relatively poorly in these areas. The authors presented the results of this study to the OTS when it was considering repealing its amendments to the CRA regulations. The OTS repealed the amendments and in doing so referred to these findings if only indirectly.⁸

The impact of the amendments that the Fed, OCC, and FDIC made to their CRA regulations was mixed. On the one hand, intermediate small bank CD lending and investment increased, but we were unable to determine whether there was a link between the changes in the CRA exam structure and the increases. On the other hand, the CRA exams of intermediate small banks contained less information than they previously had about bank branch distribution by neighborhood income level and the location of CD loans and investments. It is thus difficult to determine the impact the amendments had on intermediate small bank branching and CD lending and investment, and we call on the federal banking agencies to include this information in future CRA exams.

I. OVERVIEW OF THE RELEVANT PROVISIONS OF THE COMMUNITY REINVESTMENT ACT AND REGULATIONS AND THE 2004–2005 REGULATORY AMENDMENTS

Congress passed the CRA in 1977 to end two related practices. The first was redlining, by which banks refuse to lend in particular neighborhoods, often low-income, poor, or older neighborhoods. The second was capital export, by which banks exported the deposits of residents of redlined neighborhoods for loans in other areas.⁹ Instead, the CRA requires banks to meet the credit needs of their local communities. The CRA created a two-prong enforcement mechanism that includes regular periodic CRA examinations of all banks by the federal banking agencies and intermittent CRA performance evaluations when a bank applies to the federal banking regulatory agency that regulates it for permission to expand its business.¹⁰ Since 1989, when Congress amended the CRA to make the results of the periodic CRA examinations public, the public CRA examinations have been a crucial part of CRA enforcement. The examinations hold banks and thrifts publicly accountable for their

8. See *infra* text accompanying notes 57–59.

9. Richard D. Marsico, *Democratizing Capital: The History, Law, and Reform of the Community Reinvestment Act*, 49 N.Y.L. SCH. L. REV. 717, 717–18 (2004).

10. *Id.* at 718–19.

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record of meeting community credit needs and provide information to members of the public to allow them to monitor CRA compliance. The 2004–2005 amendments to the CRA regulations made significant changes to the CRA examination structure, and community groups were concerned about the impact the changes would have on bank and thrift community development lending and investment and provision of bank branches in LMI neighborhoods.

A. *The CRA Statute*

The CRA states that banks¹¹ have a “continuing and affirmative obligation to help meet the credit needs of the local communities in which they are chartered,”¹² including LMI neighborhoods.¹³ The CRA requires banks to serve the “convenience and needs of the communities in which they are chartered to do business.”¹⁴ Convenience and needs includes “the need for credit services as well as deposit services.”¹⁵ The CRA does not further specify the definition of either credit or deposit services, but the federal banking agencies construe these terms broadly to include a wide range of credit, investment, and deposit services, including home mortgage, small business, small farm, and other consumer loans; community development loans and investments that promote economic development in LMI neighborhoods through affordable housing or job creation; and banking services, including branches, ATM machines, off-site banking services, and low- or no-fee savings and checking accounts in LMI neighborhoods.¹⁶

The federal banking agencies enforce the CRA in two different ways. First, they must conduct periodic examinations of a bank’s “record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods”¹⁷ and issue a written CRA performance evaluation report that includes one of four ratings: “Outstanding,” “Satisfactory,” “Needs to improve,” or “Substantial non-compliance.”¹⁸ Second, when a bank submits an application to the agency that regulates it to expand its business, the agency must take the bank’s CRA record into account.¹⁹ The federal

11. See 12 U.S.C. § 2902(2) (2006). The CRA does not cover other financial institutions that make loans to the public, including credit unions, mortgage banks, and credit card companies.

12. *Id.* § 2901(a)(3).

13. *Id.* § 2903(a)(1).

14. *Id.* § 2901(a)(1).

15. *Id.* § 2901(a)(2).

16. The agencies elaborate on these in their CRA regulations. These appear in the Code of Federal Regulations as follows: OCC, 12 C.F.R. pt. 25 (2008); Fed, 12 C.F.R. pt. 228 (2008); FDIC, 12 C.F.R. pt. 345 (2008); OTS, 12 C.F.R. pt. 563e (2008).

17. 12 U.S.C. § 2903(a)(1) (2006).

18. *Id.* § 2906(a)(1), (b)(2).

19. *Id.* § 2902(3). A bank must submit an application to the federal banking agency that regulates it for permission to engage in certain business transactions or take certain actions, including an application to obtain a charter, obtain deposit insurance, establish a branch, relocate a home or branch office, merge with another bank, or obtain the assets or assume the liabilities of another bank. See *id.* § 2903(a)(2).

banking agencies have the authority to deny an application if the bank has a poor CRA record.²⁰

B. The 1995 CRA Regulations

In 1995, the four federal banking agencies issued CRA regulations that revised the regulations they had originally issued in 1978 (the “1995 regulations”). The agencies’ 1995 regulations were virtually identical. The regulations divided banks and thrifts into three categories: large, small, and wholesale or limited purpose.²¹ Each category of bank was subject to a different type of CRA examination (“CRA exam” or “exam”).²²

1. The Large Bank CRA Exam

The 1995 regulations defined banks with \$250 million or more in assets as large banks subject to the large bank CRA exam.²³ The large bank CRA exam includes three component tests: the lending test, the investment test, and the service test.²⁴

The lending test evaluates the number and dollar amount of the bank’s loans, including home mortgage, small business, small farm, and community development loans; the geographic distribution of the loans; and their distribution by borrower income level.²⁵ Community development (“CD”) is defined as affordable housing for LMI individuals, community services targeted to LMI individuals, activities that promote economic development by financing small businesses or small farms, and activities that revitalize or stabilize LMI areas, disaster areas, or distressed or underserved non-metropolitan middle-income areas.²⁶ Examples include loans to construct rental housing or child-care centers.

The investment test evaluates the dollar amount of the bank’s CD investments and innovation, complexity, and responsiveness to community credit needs.²⁷ Examples of CD investments include Low-Income Housing Tax Credits, New

20. 12 C.F.R. § 25.29(d) (2008) (OCC); *id.* § 228.29(c) (Fed); *id.* § 345.29(d) (FDIC); *id.* § 563e.29(d) (OTS).

21. As described *infra* Parts I.C.2 and II.D, the regulations now divide banks and thrifts into four categories.

22. The 2004–2005 CRA regulatory amendments affected only large and small banks. The CRA exam for wholesale or limited purpose banks is not relevant and will not be described here. For a description of limited purpose and wholesale banks and their CRA exam, see 12 C.F.R. §§ 25.12(n), 25.12(x), 25.25 (2008). For the sake of simplicity, the rest of this section will refer only to the OCC’s regulations, provided they are substantially similar to the other agencies’ regulations.

23. RICHARD D. MARSICO, *DEMOCRATIZING CAPITAL: THE HISTORY, LAW, AND REFORM OF THE COMMUNITY REINVESTMENT ACT 78* (2005).

24. *Id.*

25. 12 C.F.R. § 25.22(b)(1)–(5) (2008).

26. *Id.* § 25.12(g).

27. *Id.* § 25.23(e)(1)–(4).

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Markets Tax Credits, or equity investments supporting small business development and expansion.

Finally, the service test evaluates the bank's branch distribution and record of opening and closing branches by neighborhood income level, the bank's use of alternative means for providing banking services to LMI neighborhoods, the range of banking services the bank provides by neighborhood income level, and CD services.²⁸

The regulations require the agency to give one of five ratings to the bank on each of these component tests: "Outstanding," "High satisfactory," "Low satisfactory," "Needs to improve," and "Substantial non-compliance."²⁹ When they promulgated the 1995 regulations, the federal banking agencies created a ratings matrix so that, in assigning a large bank its overall CRA rating of "Outstanding," "Satisfactory," "Needs to improve, or "Substantial non-compliance," the lending test is worth at least twice the weight of each of the other tests.³⁰

2. *The Small Bank CRA Exam*

Under the 1995 CRA regulations, the small bank CRA exam applied to banks with less than \$250 million in assets.³¹ The small bank CRA exam evaluates a small bank's loan-to-deposit ratio, percentage of loans in its community, lending to borrowers at different income levels, and geographic distribution of loans.³² It does not evaluate a small bank's record of CD loans or investments or provision of banking services, including branches.³³

3. *CRA Assessment Areas*

The federal banking agencies evaluate a bank's compliance with the CRA in the bank's self-delineated CRA assessment area ("CRA AA").³⁴ In other words, the bank's CRA AA, which the bank defines, is the area in which it has CRA obligations. A bank's CRA AA must consist of one or more metropolitan statistical areas or contiguous political subdivisions; include the census tracts in which the bank has its main offices, its branches, and its deposit-taking ATMs, as well as the surrounding areas in which the bank has made or purchased a substantial percentage of its loans; and not reflect illegal discrimination or arbitrarily exclude LMI census tracts.³⁵

28. *Id.* § 25.24(d)–(e).

29. *Id.* at pt. 25, app. A(b).

30. Community Reinvestment Act Regulations, 60 Fed. Reg. 22,156, 22,168–70 (May 4, 1995).

31. Under the amended regulations, the substance of the small bank CRA exam has not changed, but the asset levels of banks categorized as small banks have changed. *See infra* Parts I.C.2, II.D.

32. 12 C.F.R. § 25.26(a)(1) (2008).

33. *See id.* § 25.26(b)(1)–(5).

34. *Id.* § 228.41(g).

35. *Id.* § 228.41(c), (e).

C. The 2004–2005 Amendments to the CRA Regulations

In 2001, the federal banking agencies began a review of their 1995 CRA regulations.³⁶ Two of the key claims banks made in the review process were that the asset threshold for banks to qualify as a small bank was too low and the investment test component of the large bank CRA exam was no longer viable. The banks argued that the asset threshold was outdated because the percentage of banks that qualified as small banks had declined since 1995, the investment test was not fair because smaller banks could not compete with larger banks for community development investments, the investment test created problems for all banks because there was a lack of viable CD investment opportunities, and CRA compliance costs for smaller banks were disproportionately higher than large banks.³⁷

1. The OTS Amendments to Its CRA Regulations: Increased Asset Threshold for Small Thrifts and Large Thrift Discretion to Elect the Weights of the Component Tests of the CRA Exam

In response to these complaints, the OTS increased the small thrift asset threshold from less than \$250 million to less than \$1 billion.³⁸ In addition, the OTS allowed large thrifts to elect the weight that would attach to the lending, investment, and service test components of the large thrift CRA exams, provided that the lending test count for at least half of the thrift's overall CRA rating.³⁹ Large thrifts, however, could opt out of the investment and service tests entirely.⁴⁰

2. The Federal Reserve, FDIC, and OCC Amendments to Their CRA Regulations: Intermediate Small Banks

Like the OTS, the Fed, FDIC, and OCC (collectively the “three agencies”) increased the small bank asset threshold from less than \$250 million to under \$1 billion.⁴¹ Unlike the OTS, however, they created an intermediate small bank category for banks with assets from \$250 million to under \$1 billion, and created a new CRA exam for intermediate small banks that combined the existing small bank CRA exam with a new community development test.⁴² The new CD test evaluates the number and dollar amount of the bank's CD loans and investments and the pro-

36. Joint Advance Notice of Proposed Rulemaking, 66 Fed. Reg. 37,602, 37,602 (proposed July 19, 2001).

37. Richard D. Marsico, *The 2004–2005 Amendments to the Community Reinvestment Act Regulations: For Communities, One Step Forward and Three Steps Back*, 2006 CLEARINGHOUSE REV. 534, 538.

38. *Id.* at 540.

39. *Id.* at 541.

40. *Id.*

41. *Id.* at 540.

42. *Id.*

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vision of banking services to LMI persons.⁴³ Also unlike the OTS, the three agencies did not make any changes to the large bank CRA exam.

3. Proposed Research to Evaluate the Impact of the CRA Amendments

The 2004–2005 amendments to the CRA regulations meant that fewer banks and thrifts would be subject to the more rigorous large bank and thrift CRA exams. NCRC estimated that 1,508 banks with 13,643 branches and total assets of \$679 billion would be reclassified as intermediate small banks and thus no longer subject to the large bank CRA exam.⁴⁴ NCRC also estimated that there were 106 large thrifts with \$1 billion or more in assets with a total of nearly \$1.4 trillion in assets, representing 12.4% of all thrifts and 90% of all thrift assets.⁴⁵ NCRC estimated that these large thrifts held \$1.3 billion in community development investments.⁴⁶ These thrifts were now free to elect not to be subject to the investment and service tests.

In response to the amendments and based on concerns that these amendments would result in a reduction in CD lending and investment and provision of branches in LMI neighborhoods, one of the authors of this article proposed research to determine the impact, if any, that these amendments had on CD lending and investment and the provision of bank branches and services in LMI neighborhoods. The proposal suggested a comparison of the performance of banks and thrifts affected by the CRA amendments on their CRA exams immediately prior to and immediately after the effective date of the CRA regulatory amendments. The proposal suggested two comparisons:

1. The first comparison involves large thrifts. It compares the performance of each large thrift on its last CRA exam immediately prior to the 2004–2005 CRA regulatory amendments (the “pre-amendment CRA exam”) with its performance on its first CRA exam immediately after the effective date of the CRA regulatory amendments (the “post-amendment CRA exam”).⁴⁷
2. The second comparison involves banks classified as large banks under the 1995 regulations and as intermediate small banks under the 2004–2005 amendments. This analysis compares the performance of each bank as a large bank on its last

43. *Id.*

44. Letter from John Taylor, President and Chief Executive Officer, Nat'l Cmty. Reinvestment Coal., to Jennifer J. Johnson, Sec'y, Bd. of Governors of the Fed. Reserve Sys.; Robert E. Feldman, Executive Sec'y, Fed. Deposit Ins. Corp.; Office of the Comptroller of the Currency 3, 12 (May 6, 2005) (on file with New York Law School Law Review).

45. Letter from John Taylor, President and Chief Executive Officer, Nat'l Cmty. Reinvestment Coal., to Chief Counsel's Office, Office of Thrift Supervision 2 and Tables 1 and 2 (Jan. 19, 2007) (on file with the New York Law School Law Review).

46. *Id.*

47. Marsico, *supra* note 37, at 543–44.

CRA exam immediately prior to the 2004–2005 CRA regulatory amendments (the “pre-amendment CRA exam”) with the bank’s performance on its first CRA exam as an intermediate small bank immediately after the effective date of the CRA regulatory amendments (the “post-amendment CRA exam”).

These comparisons would provide some insight into whether CD lending and investments and the provision of bank branches and banking services increased, decreased, or remained the same after the 2004–2005 amendments. These comparisons have limits; perhaps most important, they do not control for changed economic circumstances or other facts that affect bank or CD lending and investment and provision of branches and services. In addition, by examining only the first set of post-amendment CRA exams, the comparisons may not provide enough time for the full impact of the changes to be felt. Nevertheless, the comparisons should provide some initial insight into the implementation and impact of the 2004–2005 amendments to the CRA regulations, even if the insights are limited to identifying trends.

II. THE OTS AMENDMENTS

The authors undertook to study the impact of the changes to the OTS’s CRA exam for large thrifts on CD lending and investment and the provision of branches in LMI neighborhoods by comparing the performance of large thrifts on their last pre-amendment CRA exams with their performance on their first post amendment CRA exams. To create our sample of CRA exams, we collected virtually all the large thrift CRA exams the OTS issued between April 2005, the date the OTS CRA amendments became effective, and mid-November 2006, when we conducted our study. We then collected the last pre-amendment CRA exam for each of these thrifts. For our final sample, we selected the exams of the thrifts that were evaluated as large thrifts on both their pre-amendment and post-amendment CRA exams. The final sample included twenty-five large thrifts that the OTS examined under the old and new CRA exam procedures.⁴⁸

When we compared the performance of these thrifts on their pre- and post-amendment CRA exams, we made several findings. First, the amount of CD lending and investment decreased. Second, changes in CD lending and investment levels correlated with whether a thrift elected to decrease or maintain the weight of the particular test. Third, thrifts’ ratios of the percentage of their branches in LMI neighborhoods to LMI census tracts in their CRA AAs remained relatively stable, but the thrifts with the lowest ratios elected to decrease the weight of the service test. Fourth, overall CRA ratings generally increased and thrifts elected weights for the component tests of the CRA exam based on their relative performance on these components. Finally, the saga of the OTS amendments has an interesting and somewhat surprising ending. Ultimately, the OTS repealed its amendment that gave large thrifts the power to select the weight to be assigned to the components of the

48. See *infra* Appendix One.

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CRA exam, and it instituted an intermediate small thrift exam for thrifts with assets between \$250 million and under \$1 billion.

A. Community Development Lending and Investment

Our study finds that CD lending and investment levels of the thrifts in the sample declined following the OTS's CRA amendments. We also found a correlation between weights thrifts selected for the investment test and their relative performance on the test; generally, performance declined as weights decreased.

1. Overall Levels of Community Development Lending and Investment

Overall, levels of CD investment and lending by the twenty-five large thrifts in the study declined from the levels in their pre-amendment CRA exams to the levels in their post-amendment CRA exams.⁴⁹ First, the annualized median total dollar value for CD lending and investment declined from \$6.2 million to \$5.7 million. Second, the ratio of the annualized median total dollar value of CD lending and investment to the asset level of the thrift (the "CD lending and investment/asset ratio") decreased from 0.48 to 0.33. That is, the median percentage of a thrift's assets in the form of CD loans and investments dropped by nearly one-third.

2. Correlations Between CD Lending and Investment Levels and Weights Thrifts Elected for the Investment Test

Of the twenty-five thrifts in the sample, three increased the weight of the investment test, twelve elected to keep the weight at 25%, and ten decreased the weight of the test.⁵⁰ We found that the CD lending and investment levels and asset ratios of the banks that decreased the weight of the investment test declined. Also, with the exception of CD investment levels, which increased, the CD lending levels and the CD lending and investment/asset ratios for thrifts that maintained the weight of the investment test declined, but not as significantly as the thrifts that elected to decrease the weight.

a. Community Development Lending and Investing

The annualized median CD lending and investing levels of the ten thrifts that elected to decrease the weight of the investment test declined from \$5.5 million to \$4.5 million. Their annualized CD lending and investment/asset ratio declined

49. We examined changes in CD lending even though the OTS considers this a part of the lending test, not the investment test. CD lending is probably more closely related to CD investment than it is to retail lending. Thus, to the extent that the OTS signaled to thrifts that CD investment was not as important as lending when it allowed large thrifts to elect the weight of the investment test, it also may have sent a similar signal about CD lending.

50. The following comparison does not include thrifts that increased the weight of the lending test because they were large institutions with a median asset level of \$14.1 billion. In contrast, the thrifts that elected to maintain or to decrease the weight of the investment test had median asset levels of approximately \$1.5 billion.

from 0.46 to 0.30. The overall annualized median CD lending and investment levels and the CD lending and investment/asset ratios of the twelve thrifts that elected to maintain the same weight on the investment declined also, but the decreases were less significant than for other thrifts. Specifically, the annualized median CD lending and investment levels of the thrifts that maintained the weight decreased from \$6 million to \$5.9 million, and the median CD lending and investment/asset ratio declined from 0.48 to 0.34. Thus, these decreases were not as significant as the decreases for the thrifts that elected to decrease the weight of the investment test, and the overall lending and investment levels of those that kept the weight the same remained higher.

b. Community Development Investment

The annualized median CD investment levels of the ten thrifts that elected to decrease the weight of the investment test decreased from \$849,000 to \$600,000. Their CD investment/asset ratio declined by nearly half, from 0.07 to 0.04. In contrast, the annualized CD investment levels of the twelve thrifts that did not change the weight of the investment test increased from an annualized median of \$1.25 million on their pre-amendment CRA exams to \$1.39 million on their post-amendment CRA exams. Their CD investment/asset ratio declined, but less than the banks that elected to decrease the weight, from 0.10 to 0.8 (a decline of 20%).

c. Conclusions

The fact that CD lending and investment levels and the CD lending and investment/asset ratios declined even for those thrifts that maintained the same weight on the investment test begs the question whether the OTS examiners' overall expectations for CD lending and investment declined following the 2004–2005 CRA regulatory amendments. It is possible that two effects were occurring: 1) the OTS's overall expectations regarding levels of CD lending and investing declined; and 2) thrifts that chose lower weights for the investment test decreased their efforts to comply with the investment test. It certainly appeared that the latter occurred while it is also possible that the former effect was real and occurred simultaneously.

B. Branch Presence in LMI Neighborhoods

1. Overall Branch Levels in LMI Neighborhoods

Most of the thrifts in the sample had a low ratio of the percentage of their total number of branches in LMI census tracts to the percentage of LMI census tracts in their CRA AAs (the "LMI branch/LMI census tract ratio") on their pre-amendment CRA exams and on their post-amendment CRA exams, and the ratio was relatively stable. The pre-amendment ratio was 0.40 and the post-amendment ratio was 0.43. In other words, the proportional branch presence of large thrifts in LMI neighborhoods, although much lower than the ideal ratio of one, did not significantly change following the CRA amendments.

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2. Correlation Between Branch Presence in LMI Neighborhoods and Weight Thrifts Elected for the Service Test

The pre-and post-CRA amendment LMI branch/LMI census tract ratios were lowest for the four thrifts that elected to decrease the weight of the service test (0.23 pre-amendment and 0.36 post-amendment), highest for the four thrifts that elected to increase the weight of the service test (0.66 and 0.68), and in the middle for the thrifts that elected to maintain the weight of the service test (0.28 and 0.41).⁵¹

C. CRA Ratings and Weight Selections

The study finds that there was general inflation of CRA ratings from the pre-amendment CRA exams of large thrifts to the post-amendment CRA exams. The study also finds that thrifts almost always elected to decrease the weight of the component tests of the CRA exam on which their performance relative to the other component tests was equal or weaker, and generally elected to increase the weight of components tests on which their relative performance was stronger.

1. Inflation of CRA Ratings

On the pre-amendment CRA exams, large thrifts in our sample received an outstanding overall CRA rating 40% of the time and a satisfactory rating 60% of the time. In contrast, on the post-amendment CRA exams, 52% of the ratings were outstanding and 48% were satisfactory. On the lending test component of the CRA exam, outstanding ratings increased from 40% on the pre-amendment CRA exams to 48% on the post-amendment CRA exams. On the investment test, the percentage of outstanding ratings decreased from pre-amendment CRA exams to the post-amendment CRA exams, but the percentage of thrifts receiving outstanding or high satisfactory ratings on the investment test increased by four percentage points. The percentage of thrifts that received "Low satisfactory" on the investment test decreased from 40% to 24%. Finally, on the service test, the percentage of large thrifts that received a rating of "Low satisfactory" declined from 20% on the pre-amendment CRA exams to 12% on the post-amendment CRA exams.

2. Correlations Between Component Test Performance and Weight Selections

Our study finds that the thrifts in the sample elected to increase the weight of a component test of their post-amendment CRA exams when the thrifts had performed well on the test relative to the other component tests on their pre-amendment CRA exams, and elected to decrease the weight of a component test of their post-amendment CRA exams when they performed poorly on that component of their pre-amendment CRA exams relative to the other component tests. Of the thirty-two changes the thrifts in our sample elected to make on the weight of the component tests of their post-amendment CRA exams, thrifts acted consistently with these two conclusions thirty-one times. In sum, thrifts increased or decreased

51. Four thrifts with one or no branches were excluded from the analysis of branching.

the weight on the component tests of their post amendment CRA exams based on the strengths and weaknesses of their performance on these tests on their pre-amendment CRA exams. They guessed correctly that these weight selections would generally improve their overall ratings on their post-amendment CRA exams because the percentage of high overall CRA ratings and component test ratings increased while the percentage of lower ratings decreased. Thus, in the end, overall CRA ratings increased while levels of CD lending and investment in LMI neighborhoods declined.

D. The OTS Repeals Its CRA Regulatory Amendments

On March 22, 2007, the OTS announced that it was repealing its amendments to its CRA regulations and was instead adopting changes that were virtually identical to the Fed, OCC, and FDIC amendments.⁵² As a result of these changes, the federal banking agencies' CRA regulations are once again virtually identical. Large thrifts will no longer be able to elect the weight of the component tests of the CRA exam and will once again be subject to the same weight on the lending, investment, and service tests as large banks. Thrifts with between \$250 million and under \$1 billion in assets will be subject to the same lending and CD tests as intermediate small banks.

In repealing its amendments, the OTS cited the importance of consistent CRA standards for banks and thrifts and among the four federal banking agencies.⁵³ It stated, "[c]onsistent standards will allow the public to make more effective comparisons of bank and thrift CRA performance."⁵⁴ The OTS also made reference to a letter the NCRC submitted in support of these changes. The letter included the findings of this study about the impact of the OTS amendments described in this article.⁵⁵ On the one hand, the OTS seemed to discount these findings, stating, "OTS believes the experience with these innovations was too brief to be conclusive either way."⁵⁶ On the other hand, the OTS, at least implicitly, credited the findings of this study when it immediately thereafter stated, "[h]owever, the revisions reinforce CRA objectives consistent with long standing performance of savings associations in providing access to credit, making investments, and providing services that support the communities they serve."⁵⁷ This comment certainly makes it appear that the OTS found merit in this study's findings that the OTS's amendments to the CRA regulations had resulted in decreased CD lending and investment

52. See Community Reinvestment Act—Interagency Uniformity, 72 Fed. Reg. 13,429 (Mar. 22, 2007) (to be codified at 12 C.F.R. pt. 563e).

53. *Id.* at 13,430.

54. *Id.* at 13,433.

55. *Id.* at 13,432–33.

56. *Id.* at 13,433.

57. *Id.*

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and that repealing these amendments would restore large thrift CD lending and investment to their traditional levels.

III. THE FEDERAL RESERVE, FDIC, AND OCC AMENDMENTS

We also undertook to study the impact that the Fed, FDIC, and OCC (the “three agencies”) 2004–2005 amendments to their CRA regulations that reclassified banks with between \$250 and \$1 billion in assets from large banks to intermediate small banks had on CD lending and investment and the provision of branches.

We created the sample of banks to study in the spring of 2007. To do so, we generated a list of all the CRA exams of banks with assets between \$250 million and \$1 billion that the three agencies issued between late September 2005, the effective date of the CRA amendments, and November 2006. The agencies issued 288 CRA exams of banks within this asset range during this period. We then utilized two criteria to select among these banks for our sample. First, we selected only those banks that were evaluated under the intermediate small bank CRA exam. Second, among this group of banks, we selected only those banks that the federal banking agencies evaluated as large banks prior to the CRA amendments. This selection allowed us to compare any changes in CD lending, investing, and branching that may have occurred between the pre-amendment large bank CRA exam and the post-amendment intermediate small bank CRA exam. Of the 288 banks on our list, ninety-two satisfied these two criteria, and both the pre-amendment large bank CRA exams and the post-amendment intermediate small bank CRA exams of these ninety-two banks constituted our sample.⁵⁸

Our study makes three main findings regarding the intermediate small bank CRA exams. The first major finding relates to information about bank branches in their CRA exams. Approximately one-third of the intermediate small bank CRA exams in our sample did not record the number of branches the bank had in LMI neighborhoods. In addition, more than half of the intermediate small bank CRA exams did not discuss the bank’s provision of branches in LMI neighborhoods even when they did record the number of the bank’s branches in LMI neighborhoods. We are concerned that intermediate small banks may now feel free not to locate branches in LMI neighborhoods if they conclude that their CRA examiners will not scrutinize or analyze the number of branches in these neighborhoods.

Our second main finding is that the median number of branches and the LMI branch/LMI census tract ratio both increased slightly from the pre-amendment large bank CRA exam to the post-amendment intermediate small bank exam. However, we are not sure how to interpret this because a large number of exams did not contain sufficient information about bank branches in LMI neighborhoods.

Our third main finding is that the level of CD lending and investing by banks did not decrease, and in fact increased, from the pre-amendment large bank CRA exams to the post-amendment intermediate small bank exams. However, we are wary of drawing any conclusions about the long-term impact of the changes to the

58. See *infra* Appendix Two.

large bank CRA exam on CD lending and investment because a large number of the intermediate small bank CRA exams in our sample were issued within a relatively short time after the effective date of the amendments. As a result, it is possible that the banks' CD lending and investment performance was influenced as much, if not more, by their pre-amendment CRA obligations than their post-amendment CRA obligations.

A. Bank Branches

1. Information and Analysis About Branches in LMI Neighborhoods

a. Number of Branches in LMI Neighborhoods

The intermediate small bank CRA exams in our sample listed the total number of branches banks had in LMI neighborhoods less frequently than the large bank CRA exams. As shown in Table 1, twenty-nine of the ninety-two intermediate small bank CRA exams in the sample, or approximately 32%, did not state the number of branches the bank had in LMI neighborhoods. In sharp contrast, the pre-amendment large bank CRA exams in the sample omitted information about the number of branches in LMI neighborhoods on just three exams, or 3% of the time.

Table 1
CRA Exams That Did Not List the Number of
Branches in LMI Neighborhoods

	Total Exams	Exams with Branches not Listed	Percentage of All Exams
Large Bank CRA Exams	92	3	3%
Intermediate Small Bank CRA Exams	92	29	32%

Of additional concern is that the twenty-nine intermediate small bank CRA exams that did not list the number of the bank branches in LMI neighborhoods covered banks with more branches than banks whose CRA exams listed the number of branches. The intermediate small banks without LMI branch counts in their CRA exams had a median number of eleven branches, more than the nine branches for banks whose CRA exams listed the number of branches in LMI neighborhoods. Thus, it does not appear that examiners were simply exercising their discretion to omit the number of branches in LMI neighborhoods on the CRA exams of intermediate small banks that had relatively fewer branches. To the contrary, examiners omitted the number of LMI branches on the CRA exams of banks with relatively high numbers of branches overall.

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b. Discussion of Branching Activity in LMI Neighborhoods

In addition to frequently failing to list the number of branches intermediate small banks had in LMI neighborhoods, the intermediate small bank CRA exams often did not discuss the bank's distribution of branches in neighborhoods of different income levels or their record of opening and closing branches. Of the ninety-two intermediate small bank CRA exams, twelve did not mention branches at all. The majority of exams did not discuss the distribution of the bank's branches in LMI neighborhoods. As Table 2 shows, forty-nine exams did not discuss the number or percentage of the bank's branches in LMI neighborhoods; only forty-three exams discussed the distribution of branches across neighborhood income levels.

Table 2
Discussion of Branch Distribution

Total CRA Exams	Analyzed Branch Distribution (%)	Did Not Analyze Branch Distribution (%)
92	43 (47%)	49 (53%)

Furthermore, when an exam did discuss branch distribution, the analysis was often cursory, merely mentioning the number or percentage of the bank's branches in neighborhoods of various income levels. The exam often lacked any analysis of whether the distribution of branches met the needs of LMI neighborhoods or was proportional to the number of LMI census tracts in the bank's CRA assessment area.

The CRA exam of an intermediate small bank, First South Bank (the "Bank"), located in Washington, North Carolina, that the FDIC issued in 2006, is a good example of the cursory review of branching patterns.⁵⁹ The exam merely mentions the total number of the bank's branches and the number of branches by census tract income level.⁶⁰ In contrast, the Bank's last pre-amendment large bank CRA exam in 2002 lists the number of the Bank's branches and has a table providing detail on the number and percentage of branches in census tracts at various income levels.⁶¹ The table allows the reader to decide whether the number and percentage of the bank's branches in LMI census tracts compares favorably with the number and percentage of LMI census tracts in the Bank's CRA AA, and the number and percentage of people living in these tracts.⁶² In addition, the exam has another table describing the

59. See FED. DEPOSIT INS. CORP., COMMUNITY REINVESTMENT ACT PERFORMANCE EVALUATION, FIRST SOUTH BANK (2006), http://www4/fdic.gov/crapes/2006/31084_060321.pdf [hereinafter 2006 FIRST SOUTH BANK CRA EVALUATION].

60. *Id.* at 2.

61. FED. DEPOSIT INS. CORP., COMMUNITY REINVESTMENT PERFORMANCE EVALUATION, FIRST SOUTH BANK 16 (2002), http://www4.fdic.gov/crapes/2002/31084_021217.pdf [hereinafter 2002 FIRST SOUTH BANK CRA EVALUATION].

62. *Id.*

number of the bank's branch openings and closings and the impact the openings and closings had on the number of branches in each census tract income category.⁶³ While this CRA exam does not comment on the distribution of branches compared with the community's demographics, the exam at least presents data that enables the reader to reach such conclusions.⁶⁴ In contrast, the post-amendment intermediate small bank exam of the Bank lacks this information.⁶⁵ And as stated above, the majority of the intermediate small bank CRA exams lack even the information about branches in LMI census tracts that the First South Bank CRA exam contains.

c. Assurances Not Met?

When the federal banking agencies adopted the intermediate small bank CRA exams, they assured the public that scrutinizing branches would be an important part of the new CRA exam structure.⁶⁶ This is the case with large bank CRA exams, as the CRA regulations explicitly require the agencies to evaluate the distribution of a large bank's branches by the income level of the census tracts in which they are located.⁶⁷ According to the agencies, the new CD services test component of the intermediate small bank CRA exam includes an analysis of the provision and availability of banking services to LMI individuals, including branches and other facilities located in LMI neighborhoods.⁶⁸ The agencies also stated that the presence of branches in LMI neighborhoods would help to demonstrate the availability of banking services to LMI individuals. The absence of basic information about the number of bank branches in LMI census tracts in one-third of the intermediate small bank exams in our sample and the lack of any analysis of LMI banking patterns in a majority of the CRA exams raise questions about the seriousness of these assurances and the importance that the agencies place on the distribution of intermediate small bank branches in LMI neighborhoods.

63. *Id.* at 40.

64. See 2002 FIRST SOUTH BANK CRA EVALUATION, *supra* note 61.

65. See 2006 FIRST SOUTH BANK CRA EVALUATION, *supra* note 59.

66. See Marsico, *supra* note 37, at 540.

67. See 12 C.F.R. § 25.24(d)(1) (2008).

68. The Interagency Question and Answer document contains the following question and answer about this issue:

§ 26(c)(3)-1: What will examiners consider when evaluating the provision of community development services by an intermediate small bank?

A1: Examiners will consider not only the types of services provided to benefit low- and moderate-income individuals, such as low-cost bank checking accounts and low-cost remittance services, but also the provision and availability of services to low- and moderate-income individuals, including through branches and other facilities located in low- and moderate-income areas. Generally, the presence of branches located in low- and moderate-income geographies will help to demonstrate the availability of banking services to low- and moderate-income individuals.

Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment; Notice, 71 Fed. Reg. 12,424, 12,433 (Mar. 10, 2006).

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2. Analysis of Changes in Number of Branches in LMI Census Tracts

We attempted to compare the changes in the relative number of intermediate small bank branches in LMI neighborhoods pre- and post-CRA amendment by comparing the LMI branch/LMI census tract ratio on banks' pre-amendment large bank CRA exams with the ratio on the post-amendment intermediate small bank CRA exams.

To create our sample of CRA exams to conduct our LMI branch/LMI census tract ratio analysis, we eliminated the intermediate small bank CRA exams that did not list the number of the bank's branches in LMI census tracts or the number of LMI census tracts in the bank's CRA AA. We also eliminated CRA exams when the total number of the bank's branches was three or fewer because such a small number of branches would render an analysis of the distribution of the bank's branches virtually meaningless. These deletions reduced our sample to fifty-two CRA exams of intermediate small banks and the corresponding pre-amendment large bank CRA exams of these banks.

In our sample, the median number of branches in the intermediate small banks' CRA assessment area prior to the CRA amendments was eight. The median percentage of branches in LMI census tract was 16.2%, which was roughly equal to the 16.5% of census tracts that were LMI in the banks' CRA assessment areas, resulting in an LMI branch/LMI census tract ratio of 0.98. After the CRA amendments, the median number of overall bank branches increased to nine branches. The percentage of branches in LMI census tracts was 17.9% and 17.2% of the census tracts in the banks' assessment areas were LMI, creating an LMI branch/LMI census tract ratio of 1.04, slightly higher than the pre-amendment ratio.

We interpret these findings with caution, however, because, as described earlier, a large percentage of intermediate small bank CRA exams do not have information about the bank's branches in LMI census tracts. It is possible that this reflects selection bias. In other words, it is possible that examiners did not collect information about the number of branches in LMI census tracts from banks that the examiners thought might have a low LMI branch/LMI census tract ratio. As a result, it is possible that we analyzed the records of only the intermediate small banks in our sample with the best LMI branch/LMI census tract ratios, leading us to say that we cannot reach any conclusions about the increase in the median LMI branch/LMI census tract ratio from the pre-amendment large bank CRA exam to the post-amendment large bank intermediate small bank CRA exam. This inability to reach a conclusion is further evidence of the need for the agencies to fulfill their assurances that they will evaluate bank branching in intermediate small bank exams.

B. Community Development Lending and Investing

As described in Section I.C.2, large banks re-categorized as intermediate small banks after CRA regulatory amendments were no longer subject to the lending test (which evaluates, among other things, the bank's CD lending) or the investment test (which evaluates the bank's CD investment). Instead, they are now subject to the

small bank lending test, which does not evaluate CD lending, and the community development test, which evaluates CD lending and investment and banking services. One question we attempted to answer with our research is whether this change in the CRA exam structure correlated with any changes in the level of CD lending and investment. On the one hand, we hypothesized that intermediate small banks might pay less attention to CD investment and lending because the agencies no longer consider them under separate tests. On the other hand, it could also be possible that combining CD investments and lending into one test elevated their importance.

1. *CD Lending and Investment Levels*

As shown in Table 3 below, our study finds that CD lending and investment levels for the intermediate small banks in our sample increased from their pre-amendment CRA exams to their post-amendment CRA exams. The median CD lending level increased from \$2,385,500 to \$5,326,623. Likewise, the median CD investment levels jumped from \$658,923 on the pre-amendment CRA exams to \$1,180,067 on the post-amendment CRA exams. The dollar value of CD lending and investment combined (the “CD financing level”) climbed from \$3,158,669 on the pre-amendment CRA exams to \$7,358,087 on the post-amendment CRA exams.

After adjusting for changes in bank asset sizes and the amount of time each CRA exam covered, the annualized combined CD investment and lending levels continue to show significant increases.⁶⁹ The median asset size of the intermediate small banks increased from \$401 million on the pre-amendment CRA exams to \$503 million on the post-amendment CRA exams, an increase of approximately 25%. In contrast, CD financing levels more than doubled. Further, on an annualized basis, the median ratio of the CD financing level to the total assets of the bank (the “CD financing/asset ratio”) was 0.32 on the pre-amendment CRA exams and increased to 0.57 on the post-amendment CRA exams.⁷⁰

Table 3
Community Development Financing Increases

	Pre-amendment CRA Exam	Post-amendment CRA Exam
Median CD Financing Level	\$3,158,669	\$7,358,087
Median CD Financing/ Asset Ratio	0.32	0.57

69. We did not adjust for changed economic circumstances or differences in the CD lending and investment climates.

70. We derived annualized figures by dividing the combined CD lending and investment levels by the time period covered by the CRA exam cycle (2.5 years for the pre-CRA amendment exams and 2.6 years for the post-amendment CRA exams). We then divided the annualized CD financing level by the median bank asset level on previous and current exams.

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While the finding that CD financing level of intermediate small banks increased from the pre-amendment CRA exams to the post-amendment CRA exams is encouraging, we must emphasize that this finding is preliminary. The time periods that the intermediate small bank CRA exams in our sample covered included less than one year during which the intermediate small bank CRA exam procedures were in effect. This is less than half of the two and one-half year time period that intermediate small bank CRA exams in our sample generally covered. Thus, the intermediate small banks in our sample had not necessarily adjusted their CD lending and investment practices based on the intermediate small bank exam procedures. We suggest a follow-up study of intermediate small bank CRA exams that covers the period starting from September 2005, the effective date of the intermediate small bank exam procedures, to make sure that the banks are evaluated under the intermediate small bank CRA standards only. We expect the CRA exams utilizing only the intermediate small bank standards will be issued starting in late 2008.

2. Responsiveness and Innovativeness of CD Lending and Investment

Our study did not analyze the degree to which a bank's CD lending and investment was both innovative and responsive to community needs between the pre-amendment CRA exams and the post-amendment CRA exams. The reason for this is that the terminology the CRA exams used to evaluate responsiveness and innovation were inconsistent, making it difficult to compare performances. However, one indirect measure of the responsiveness and innovation was the change in the level of bank investments in Mortgage Backed Securities ("MBS"), which are securities backed by home mortgage loans. MBS investments are routine and do not respond to unique community needs. It is easier for a bank to purchase MBS than to invest capital in a local CD project. Thus, a change in MBS investment would indicate a change in responsiveness and innovation.

Average MBS levels appeared to decline from \$498,798 on the pre-amendment CRA exams to \$362,565 on the post-amendment CRA exams. The number of banks with investments in MBS decreased from fifteen to thirteen. We cannot, however, make more specific conclusions about the level of MBS investment or the number of banks that invested in them because only twenty-one of the ninety-two CRA exams in our sample contained information about MBS investments. However, if the level of MBS investment did decline, this could be an indication that, overall, the responsiveness and innovation of CD lending and investment improved. Another issue for a future study would be to do a comprehensive assessment of any changes in the qualitative nature of CD lending and investments from the pre-amendment CRA exams to the post-amendment CRA exams.

3. Information About the Distribution of CD Lending and Investment

While the levels of CD lending and investment of intermediate small banks may have increased from the pre-amendment to the post-amendment CRA exams, the new CRA exams provide less information about the distribution of CD financing

across the banks' CRA assessment areas. For example, the pre-amendment CRA exam for First South Bank has a table in the appendix displaying the Bank's levels of CD investment in each of its CRA assessment areas.⁷¹ The Bank's post-amendment CRA exam lacks this table, making it more difficult for community organizations, local public officials, and other stakeholders to determine the levels of CD investment in their localities.⁷² Neither the pre-amendment nor the post-amendment CRA exam for the Bank had a similar table displaying levels of CD lending for each of the bank's assessment areas. If the CRA is to be effective, the tables for CD lending and investing should show more detail, not less, about financing in each locality over time.

Consistent with our observations about the lack of information about the distribution of CD lending and investment in intermediate small bank CRA exams in general, and the CRA exam of the Bank in particular, the Office of the Inspector General of the FDIC found inconsistencies and incomplete information in the FDIC's CRA exams of intermediate small banks.⁷³ In a report issued in 2007, the Inspector General found that the FDIC should be more consistent in reporting CD investing and lending levels. The Inspector General also reported that the CRA exams often lacked measures of the bank's capacity to undertake CD financing activity and rarely showed CD lending/asset ratios. The exams also lacked information regarding the bank's historical level of CD financing or a comparison of the bank's level of CD financing with those of its peers. While the Inspector General examined just one agency, our sample encountered similar issues with the CRA exams of the other agencies as well.

C. Conclusions and Recommendations Regarding Intermediate Small Bank Exams

Our study of the pre-amendment and post-amendment CRA exams of intermediate small banks yields both positive and negative observations. On the positive side, we observed increases in intermediate small banks' CD investing and lending. However, we interpret this finding with caution because intermediate small banks were operating under the large bank CRA exam procedures during more than half the time that their first post-amendment intermediate small bank CRA exams covered.

On the other hand, the intermediate small bank exams did an unsatisfactory job evaluating banking services. The pre-amendment CRA exams explicitly considered the distribution of a bank's branches in the bank's CRA AA by census tract income level. The federal banking agencies removed this criterion from the post-amendment CRA exams. As a result, one-third of the post-amendment CRA exams in our

71. 2002 FIRST SOUTH BANK CRA EVALUATION, *supra* note 61, at app. A.

72. 2006 FIRST SOUTH BANK CRA EVALUATION, *supra* note 59, at app. A.

73. OFFICE OF THE INSPECTOR GEN., FDIC'S IMPLEMENTATION OF THE 2005 AMENDMENTS TO THE COMMUNITY REINVESTMENT ACT 4-5 (2007).

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sample lacked information about the number and percentage of the bank's branches in LMI neighborhoods. In contrast, only 3% of the pre-amendment CRA exams for the same banks lacked this information. Also, the majority of the intermediate small bank CRA exams lacked any analysis of a bank's record of providing branches in LMI census tracts. We believe that the CRA exams must contain data about the number of a bank's branches in LMI census tracts and how this number compares to the percentage of LMI census tracts in the bank's CRA AA. Otherwise, it will be impossible to evaluate whether a bank is meeting the banking service needs of its community. The federal banking agencies themselves realize the importance of branches in providing bank services as they themselves stated in their Interagency Questions and Answers about CRA compliance.

IV. CONCLUSION

Our study of the impact of the federal banking agencies' amendments to the CRA regulations in 2004 and 2005 yielded several broad conclusions about the effect of CRA performance exams on CRA performance. The following two are perhaps the most significant.

First, the standards the federal banking agencies employ in evaluating CRA performance have an impact on bank CRA performance. This conclusion is most clearly supported by the decrease in CD lending and investment by thrifts after the OTS allowed them to select the weight these activities would have on their overall CRA ratings. To its credit, the OTS repealed this amendment to its regulations.

Second, information about bank CRA practices is essential to enforcing the CRA. Reductions in information about bank branching in LMI neighborhoods on intermediate small bank CRA exams, for example, makes it very difficult to determine how well intermediate small banks were doing in meeting the banking service needs of their communities. The study calls on the federal banking agencies to include more information about bank branching, as well as the distribution of community development lending and investment.

Finally, our study concluded that more analysis is necessary to evaluate the impact of the creation of intermediate small bank CRA exams. The intermediate small bank CRA exams we examined covered the time period when the banks had CRA obligations as both large banks and intermediate small banks, and thus, it is difficult to determine what their records would be when covered by intermediate small bank obligations only.

APPENDIX ONE

BANK NAME	CITY AND STATE
Citizens Financial Bank	Munster, Indiana
Hudson City Savings Bank	Paramus, New Jersey
World Savings Bank	Houston, Texas
Mid America Bank, FSB	Clarendon Hills, Illinois
Harbor Federal Savings Bank	Fort Pierce, Florida
Provident Bank	Montebello, New York
Ironstone Bank	Fort Myers, Florida
New South Federal Savings Bank	Irondale, Alabama
Bank Financial, FSB	Olympia Fields, Illinois
North American SB, FSB	Grandview, Missouri
Farmers and Mechanics Bank	Burlington Township, New Jersey
Encore Bank	Houston, Texas
Coastal Federal Bank	Myrtle Beach, South Carolina
Ohio Savings Bank	Cleveland, Ohio
Brookline Bank	Brookline, Massachusetts
Fidelity Bank	Wichita, Kansas
American Savings Bank	Honolulu, Hawaii
Acacia Federal Savings Bank	Falls Church, Virginia
Capital One	McLean, Virginia
First Market Bank	Richmond, Virginia
Peoples First Community Bank	Panama City, Florida
Provident Savings Bank	Riverside, California
Territorial Savings Bank	Honolulu, Hawaii
World Savings Bank	Oakland, California
R-G Crown Bank	Casselberry, Florida

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APPENDIX TWO

BANK NAME	CITY AND STATE
Blackhawk State Bank	Beloit, Wisconsin
First State Bank	Gainesville, Texas
BankFive	Fall River, Massachusetts
Affinity Bank	Ventura, California
The Equitable Bank, S.S.B.	Wauwatosa, Wisconsin
Lisle Savings Bank	Lisle, Illinois
Northway Bank	Berlin, New Hampshire
Juniata Valley Bank	Mifflintown, Pennsylvania
Kaw Valley State Bank & Trust Co.	Topeka, Kansas
The Bank of Southside Virginia	Carson, Virginia
Lakeside Bank	Chicago, Illinois
The Stockmen's Bank	Kingman, Arizona
Citizens 1st Bank	Tyler, Texas
The Nodaway Valley Bank	Maryville, Missouri
Extraco Banks	Temple, Texas
Rocky Mountain Bank	Billings, Montana
State Bank of Countryside	Countryside, Illinois
Insouth Bank	Brownsville, Tennessee
Bank of Odessa	Odessa, Missouri
Chicopee Savings Bank	Chicopee, Massachusetts
Northwest Georgia Bank	Ringgold, Georgia
Palos Bank and Trust Company	Palos Heights, Illinois
Jefferson Bank of Missouri	Jefferson City, Missouri
Suburban Bank and Trust Company	Elmhurst, Illinois
The Bank of Western Massachusetts	Springfield, Massachusetts

Flagship Bank and Trust Company	Worcester, Massachusetts
Crescent National Bank	New Orleans, Louisiana
Coppermark Bank	Oklahoma City, Oklahoma
Northfield Savings Bank	Northfield, Vermont
Farmers and Merchants Trust Company	Chambersburg, Pennsylvania
Bank of Granite	Granite Falls, North Carolina
First Mid-Illinois Bank & Trust, N.A.	Portland, Tennessee
Stoneham Cooperative Bank	Stoneham, Massachusetts
Southern Commercial Bank	St. Louis, Missouri
American Bank of Commerce	Wolfforth, Texas
Auburn Bank	Auburn, Alabama
Bank of Blue Valley	Overland Park, Kansas
Bank of Marin	Corte Madera, California
Cape Ann Savings Bank	Gloucester, Massachusetts
Dubuque Bank and Trust Company	Dubuque, Iowa
Eagle Bank	Everett, Massachusetts
Delaware County Bank and Trust	Lewis Center, Ohio
First Business Bank	Madison, Wisconsin
First South Bank	Washington, North Carolina
First Western Bank & Trust	Minot, North Dakota
Five Points Bank	Grand Island, Nebraska
Glacier Bank	Kalispell, Montana
Heartland Bank	Gahanna, Ohio
Killbuck Savings Bank	Killbuck, Ohio
Marine Bank	Springfield, Illinois
Peoples State Bank	Hamtramck, Michigan
The Citizens Bank	Farmington, New Mexico

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The Mechanics Savings Bank	Mansfield, Ohio
Union Bank	Kansas City, Missouri
Union TC	Ellsworth, Maine
Western Security Bank	Billings, Montana
Wisconsin Community Bank	Cottage Grove, Wisconsin
Southwest Missouri Bank	Carthage, Missouri
Wayne Bank	Honesdale, Pennsylvania
Your Community Bank	New Albany, Indiana
Citizens and Farmers Bank	West Point, Virginia
Enterprise Bank of South Carolina	Erhardt, South Carolina
First State & Trust Company	Carthage, Texas
Pinnacle Bank	Torrington, Wyoming
Central Bank of Lake of the Ozarks	Osage Beach, Missouri
Jackson County Bank	Seymour, Indiana
Oxford Bank & Trust	Addison, Illinois
The Guilford Savings Bank	Guilford, Connecticut
United Community Bank	Chatham, Illinois
The Citizens Banking Co.	Sandusky, Ohio
Habersham Bank	Clarksville, Georgia
Jefferson Bank and Trust Company	Eureka, Missouri
Greater Delaware Valley Savings Bank	Broomall, Pennsylvania
First State Bank of Central Texas	Temple, Texas
Mountain West Bank	Coeur D'Alene, Idaho
Liberty Bank for Savings	Chicago, Illinois
The Mission Bank	Missouri, Kansas
Yadkin Valley Bank and Trust Company	Elkin, North Carolina
The Chinese American Bank	New York, New York

The Bank of Hemet	Hemet, California
Bank of Hanover and Trust Company	Hanover, Pennsylvania
The East Carolina Bank	Engelhard, North Carolina
Venture Bank	Lacey, Washington
Western Commerce Bank	Carlsbad, New Mexico
The Newburyport Five Cent Savings Bank	Newburyport, Massachusetts
Southern Michigan Bank and Trust	Coldwater, Minnesota
United Security Bank	Fresno, California
Baker Boyer National Bank	Walla Walla, Washington
First National Bank	Christiansburg, Virginia
First Century Bank, N.A.	Bluefield, West Virginia
First State Bank of Uvalde	Uvalde, Texas
The Farmers Bank and Trust Company of Georgetown	Georgetown, Kentucky

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