

H. CARL McCALL
STATE COMPTROLLER



A. E. SMITH STATE OFFICE BUILDING
ALBANY, NEW YORK 12236

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

July 21, 1999

Ms. Elizabeth McCaul
Acting Superintendent
New York State Banking Department
Two Rector Street
New York, NY 10006

Re: Report 99-F-27

Dear Ms. McCaul:

Pursuant to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law, we have reviewed the actions taken by officials of the New York State Banking Department (Banking), as of June 21, 1999, to implement the recommendations contained in our audit report, *Community Reinvestment Act: Regulation of Bank Compliance* (Report 95-S-123). Our report, which was issued on October 30, 1997, examined Banking's regulation of bank compliance with the Community Reinvestment Act.

Background

Banking is responsible for supervising and regulating New York State chartered banking organizations. Under the Federal Community Reinvestment Act (CRA), banks are encouraged to help meet the credit needs of their local communities. The CRA is intended to prevent the practice of "redlining," in which banks do not approve loans to residents and businesses located in low- and moderate-income communities. The banks licensed in New York State are required by the State to comply with the CRA, and Banking is required to monitor this compliance.

Summary Conclusion

Our prior audit found that improvements were needed in Banking's monitoring practices regarding CRA compliance. For example, while Banking examiners generally reported that banks complied with the CRA, we found reviews conducted by the examiners may not have been thorough enough to support their conclusions. When we examined mortgage loan activity in the metropolitan New York City area, we found possible indications of unfair lending practices that should have required further examination by Banking. In our follow-up review, we found that Banking officials have taken steps to strengthen their CRA examination procedures.

Summary of Status of Prior Audit Recommendations

Banking officials have implemented all five prior audit recommendations.

Follow-up Observations

Recommendation 1

Revise CRA assessment guidelines to ensure that adequate attention is given to all assessment factors contained in the CRA regulations.

Status - Implemented

Agency Action - In May 1995, Federal regulators implemented revised CRA regulations, refocusing their examination efforts on evaluating the amount of money actually finding its way into the communities the banks were serving. At the time of our prior audit, New York State had not yet incorporated these refocused procedures into its CRA examination guidelines. Effective December 10, 1997, after the issuance of our prior audit report, the New York State Banking Board adopted new CRA regulations that parallel the Federal CRA regulations. For example, the new regulations provide that in conducting examinations, three distinct performance tests are used to evaluate performance - lending, investing and service. The revised assessment guidelines contain details on the criteria to be used in performing these tests. The new regulations also provide for the use of Community Development Criteria in assessing performance. The revised guidelines contain information about the meaning of these criteria and how they can be measured. Moreover, Banking revised its CRA examination template to include factors indicated in the new regulations. The template aids examiners in conducting the examination and in writing the performance report based on assessment factors in the new regulations. Lastly, CRA examiners have received training on implementing the new CRA regulations to evaluate a bank's performance.

Recommendation 2

Require examiners to document the information used in developing CRA ratings.

Status - Implemented

Agency Action - Examiners are documenting the information used in developing CRA ratings. We reviewed some workpapers and found analysis and memos prepared by examiners that indicate that they considered the results of the three performance tests and other factors in rendering CRA ratings. The workpapers also contained geocoding analysis done to assist the examiners in assessing the adequacy of the geographic distribution of loans.

Recommendation 3

Require supervisors to review all examiner files to ensure that required documents have been reviewed by the examiners and that CRA ratings are objective, consistent, accurate and adequately supported.

Status - Implemented

Agency Action - Banking officials have implemented a process for supervisory review of reports and their associated workpapers on three different levels: by a senior examiner; a director; and the deputy superintendent. This review process consists of determining the accuracy of numbers reported, reviewing supporting information, and determining whether trends are consistent with the report conclusions and that the conclusions are reasonable. To evidence this supervisory review, Banking prepares and maintains examination "traffic sheets." Pertinent information contained on these traffic sheets includes the date the examination began/ended, names/signatures of the reviewers, and the dates of the reviews. Further, with the implementation of the revised examination templates, consistency in the types of information to be obtained during the examination and the report format is enhanced.

Recommendation 4

Require examiners to document their review and assessment of delineated service areas when rendering CRA ratings to banks.

Status - Implemented

Agency Action - Under the new CRA regulations, "delineated service areas" are now referred to as "assessment areas." There is evidence of examiners' documentation of their review and assessment of the assessment area. For instance, in the workpapers that we examined, we found memos, analysis and maps pertaining to the assessment areas as determined by both the banking institution and the Banking examiner. Also included in the workpapers were census information used by Banking to define the assessment area. Further, in our review of the workpapers for a bank for which Banking disagreed with the assessment areas as defined by the bank, we found that the Banking examiner provided detailed reasons and support for the assessment areas defined.

Recommendation 5

Periodically analyze the distribution of banking services between communities to identify problems not addressed adequately by the current CRA examination process.

Status - Implemented

Agency Action - The new CRA regulations adopted in December 1997, provide for examinations to have an increased focus on the distribution of banking services through the performance of a "Service Test." The revised guidelines define the type of services that should be assessed. A review of a recent performance report issued by Banking along with the related workpapers, indicates that Banking is reviewing banking service factors including: branch openings/closings; service hours; availability of ATMs; and the offering of basic banking accounts. In addition, Banking is involved in outreach activities to identify problems and develop solutions to the need for banking services in communities. For example, Banking meets with community organizations to discuss the banking service needs in their specific areas, and has partnered with organizations to provide information to consumers about banking options.

Major contributors to this report were Santo Rendon and Sheila Jones.

We thank the management and staff of the New York State Banking Department for the courtesies and cooperation extended to our staff during this review.

Very truly yours,

Frank J. Houston
Audit Director

cc: Charles Conaway
Gideon Weingarten