NEW YORK STATE BANKING DEPARTMENT

CONSUMER SERVICES DIVISION

One State Street
New York, NY 10004

PUBLIC SUMMARY

COMMUNITY REINVESTMENT ACT PERFORMANCE EVALUATION

Date of Evaluation: December 31, 2003

Institution: Bank of Smithtown
One East Main Street
Smithtown, NY 11787

Note: **This evaluation is not an assessment of the financial condition of this institution. The rating assigned does not represent an analysis, conclusion or opinion of the New York State Banking Department concerning the safety and soundness of this financial institution.**

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GENERAL INFORMATION

This document is an evaluation of the Community Reinvestment Act ("CRA") performance of Bank of Smithtown ("BoS") prepared by the New York State Banking Department. The evaluation represents the Banking Department's current assessment and rating of the institution's CRA performance based on an evaluation conducted as of December 31, 2003.

Section 28-b of the New York State Banking Law, as amended, requires that when evaluating certain applications, the Superintendent of Banks shall assess a banking institution's record of helping to meet the credit needs of its entire community, including low- and moderate-income ("LMI") areas, consistent with safe and sound operations.

Part 76 of the General Regulations of the Banking Board implements Section 28-b and further requires the Banking Department to assess the CRA performance records of regulated financial institutions. Part 76 establishes the framework and criteria by which the Department will evaluate an institution's performance. Section 76.5 further provides that the Banking Department will prepare a written report summarizing the results of such assessment and will assign to each institution a numerical CRA rating based on a 1 to 4 scoring system. The numerical scores represent an assessment of CRA performance as follows:

(1) Outstanding record of meeting community credit needs;

(2) Satisfactory record of meeting community credit needs;

(3) Needs to improve record of meeting community credit needs; and

(4) Substantial noncompliance in meeting community credit needs.

Section 76.5 further requires that the CRA rating and the written summary ("Evaluation") be made available to the public. Evaluations are based primarily on a review of performance tests and standards described in Section 76.7 and detailed in Sections 76.8 through 76.13 of the regulation. These tests and standards incorporate the 12 assessment factors contained in Section 28-b of the New York State Banking Law.

For explanation of technical terms used in this report, please consult the **GLOSSARY** at the back of this document.

OVERVIEW OF INSTITUTION'S PERFORMANCE

Overall Rating

Bank of Smithtown is rated "2," indicating a satisfactory record of helping to meet community credit needs. This rating is based on the following factors:

Lending Test - "High Satisfactory"

The bank is evaluated based on its origination of small business and HMDA-reportable loans during the evaluation period. Since they are the bank's primary lending product, small business loans were given greater emphasis in this evaluation.

- **Lending Activity**

  The bank's lending levels reflect good responsiveness to assessment area credit needs.

  Peer small business lending data show that in 2002, the bank ranked 21st among 96 lenders in the assessment area, compared to 23rd among 100 lenders in 2003.

  Peer mortgage data for the assessment area show that in 2002, the bank ranked 123rd among 376 HMDA-reporting lenders, compared to 135th among 420 lenders in 2003.

- **Assessment Area Concentration**

  The bank originated a high percentage of its loans within the assessment area.

  In 2002, BoS originated 249 small business loans, including 214 loans (85.9%) inside the assessment area, compared to 217 loans (83.4%) inside the same area in 2003.

  In 2002, the bank originated 78 HMDA-reportable loans, including 67 loans (85.9%) inside the assessment area. In 2003, BoS originated 83 of its 104 HMDA-reportable loans (79.8%) inside the assessment area.

- **Geographic Distribution of Loans**

  The geographic distribution of loans reflects adequate dispersion across the assessment area.

  During the evaluation period, the bank's small business lending in LMI geographies was well below the market aggregate's performance.

  In 2002, BoS originated 214 small business loans within the assessment area, including 27 loans (12.6%) originated in LMI census tracts. In comparison, the market aggregate originated 20.2% of its small business loans in LMI areas.

In 2003, BoS originated 181 small business loans in its assessment area, including 27 loans (14.9%) in LMI geographies. That same year, the market aggregate originated 20.5% of its small business loans in LMI geographies.

In 2002, BoS made 67 loans within its assessment area, including 14 loans (20.9%) originated in LMI geographies. This penetration rate for LMI areas closely tracked the market aggregate's performance of 20.8% for HMDA-reportable loans that year. In 2003, the bank's LMI penetration rate for HMDA-reportable loans decreased substantially, underperforming the market aggregate by a wide margin. Of the 83 HMDA-reportable loans that BoS originated within its assessment area during 2003, ten loans (12.0%) were originated in LMI geographies. In comparison, the market aggregate originated 22.2% of its HMDA-reportable loans in LMI areas.

- **Borrower Characteristics**

  BoS achieved a good distribution of loans to borrowers of different income levels.

  For small business loans, the bank's penetration among firms of different revenue sizes was good. In 2002, 68.7% of the bank's small business loans were extended to businesses with annual revenues of $1 million or less, compared to 32.1% for the market aggregate. In 2003, the bank's distribution of loans to businesses in this revenue category was slightly lower, at 64.1%, but remained well above the market aggregate's penetration rate of 38.9%.

  For HMDA-reportable loans, the bank achieved an adequate distribution of lending among borrowers of different income levels. In 2002, 17.9% of the bank's HMDA-reportable loans were extended to LMI borrowers, compared to 28.5% for the market aggregate. In 2003, the bank's LMI penetration ratio for HMDA-reportable loans decreased to 16.8%, remaining well below the market aggregate's ratio of 27.2%.

- **Community Development Lending Activity**

  The bank's level of community development lending is excellent. Community development loans originated during the evaluation period totaled $14.1 million. This entire amount is new money.

Investment Test - **"Needs to Improve"**

The bank's level of qualified investment and grant activity is poor. During the evaluation period, the bank's qualified investments, including grants, totaled only $66 thousand.

<u>Service Test</u> - **“High Satisfactory”**

The bank’s network of 10 branches is reasonably accessible to essentially all portions of the assessment area. One branch is located in a moderate-income geography and three branches are located in census tracts adjacent to LMI geographies. Each branch offers an ATM.

The bank opened three branches during the evaluation period. Two of these branches are located in middle-income geographies and one is in an upper-income geography. All of the new branches are in census tracts adjacent to LMI areas.

The banks’ business hours and services are tailored to the needs of the assessment area. All branch offices have extended hours that include Saturday hours. Eight branches have drive-up windows.

The bank’s provision of community development services is limited and needs to improve.

This evaluation was conducted based on a review of the 12 assessment factors set forth in Section 28-b of the New York State Banking Law and Part 76 of the General Regulations of the Banking Board.

PERFORMANCE CONTEXT

Institution's Profile:

Chartered in 1910, Bank of Smithtown is a full-service commercial bank that is wholly-owned by Smithtown Bancorp, a one-bank holding company. The institution is a member of the Federal Reserve System and is insured by the FDIC.

In addition to its head office in the town of Smithtown (Suffolk County, NY), the bank operates nine full-service offices in the communities of Commack, Hauppauge, Kings Park, Centereach, Lake Grove, Northport, East Setauket, Rocky Point and Wading River.

As of June 30, 2003, BoS ranked 14th out of 26 institutions in Suffolk County based on a deposit market share of 1.57%. By comparison, two years earlier BoS ranked 17th out of 25 institutions based on a deposit market share of 1.26%.

On its year-end Call Report for 2003, BoS reported total assets of $564.9 million, including $459.6 million (81.4%) in net loans and leases. As of the same date, the bank's deposits totaled $482.7 million, resulting in a loan-to-deposit ratio of 95.2%.

The bank's loan products include:

- Residential mortgages
- Home equity loans and lines of credit
- Personal loans
- Automobile loans
- Commercial mortgages
- Business loans

The following table summarizes the composition of BoS's loan portfolio based on Schedule RC-C of the bank's year-end Call Reports for 2001 through 2003:

GROSS LOANS OUTSTANDING						
	12/31/2001		**12/31/2002**		**12/31/2003**	
Loan Type	($000)	%	($000)	%	($000)	%
Commercial Mortgages	145,255	51.5	179,090	50.0	259,126	56.4
1-4 Family Residential Mortgages	63,206	22.4	67,704	18.9	63,345	13.8
Multifamily Mortgages	10,696	3.8	17,297	4.8	21,527	4.6
Commercial & Industrial Loans	24,651	8.7	26,830	7.5	39,228	8.5
Consumer Loans	2,821	1.0	2,976	0.8	1,383	0.3
Construction, Land Development	35,188	12.5	63,774	17.9	74,753	16.3
Other Loans	273	0.1	500	0.1	315	0.1
Total Gross Loans	**282,090**	**100.0**	**358,171**	**100.0**	**459,677**	**100.0**

As shown in the table, BoS's loan portfolio increased from $282.1 million at the end of calendar year 2001 to $459.7 million at the end of 2003, for an increase of approximately 63% over two years.

The bank's loan portfolio continues to be dominated by commercial mortgages, which represent more than half of the portfolio. Meanwhile, the percentage of one- to four-family residential mortgages declined during the evaluation period, from 22.4% at the end of 2001 to 13.8% at the end of 2003.

Assessment Area:

Since the previous evaluation, there has been no change in BoS's assessment area. The area includes Suffolk County in its entirety. Suffolk County is a suburban area that is part of the Nassau-Suffolk Primary Metropolitan Statistical Area ("PMSA 5380").

According to data from the 2000 U.S. Census, the assessment area consists of 320 census tracts, including eight zero-income tracts, two (0.6%) low-income tracts, 65 (20.3%) moderate-income tracts, 196 (61.3%) middle-income tracts and 49 (15.3%) upper-income tracts.

This distribution reflects minimal change since the 1990 Census. According to data from the 1990 Census, there were 312 census tracts in Suffolk County, including seven zero-income tracts, two (0.6%) low-income tracts, 59 (18.9%) moderate-income tracts, 205 (65.7%) middle-income tracts and 39 (12.5%) upper-income tracts.

The population of Suffolk County increased by approximately 7.4%, to 1.4 million people, between the 1990 and 2000 Censuses. As of 2000, 11.8% of the population was over the age of 65 and 23.4% was under the age of 16.

The assessment area's 469.5 thousand households include 128.9 thousand (27.5%) households that receive social security benefits, 7.1 thousand (1.5%) that receive public assistance and 26.5 thousand (5.6%) that live below the poverty level.

Of the 362.9 thousand families within the assessment area, 143 thousand (39.4%) were LMI families, 91.9 thousand (25.3%) were middle-income families and 128 thousand (35.3%) were upper-income families.

The vast majority (91.7%) of the 522.3 thousand housing units in the assessment area were contained within one- to four-family buildings, while 7.3% were located within multi-family units. The median age of the area's housing stock was 34 years and the median price was $207.2 thousand.

As of 2000, owner-occupied units totaled 374.4 thousand (71.7%) and renter-occupied units totaled 94.9 thousand (18.2%). More than 53 thousand housing units (10.2%) were vacant.

As of 2003, the county's median family income ("MFI") was $74.5 thousand, while the MSA's median family income was $83.7 thousand.

In 2003, there were 125.4 thousand business units in the assessment area, including 83 thousand (66.2%) firms with revenues of $1 million dollars or less, 7.5 thousand (approximately 6%) companies with revenues of more than $1 million, and 34.9 businesses (27.8%) that did not report their revenues.

Of all the business units in the area, 91.9% were operating from a single location and 75.9% had fewer than 50 employees. The majority of businesses operating in Suffolk County were concentrated in the service industry (35.9%), retail trade (15.1%), non-classifiable establishments (14.9%) and construction (10.9%).

The assessment area appears reasonable based upon the bank's lending patterns and the location of its branches. There is no evidence that LMI areas have been arbitrarily excluded from the assessment area.

PERFORMANCE TESTS AND ASSESSMENT FACTORS

This evaluation entails a review of the bank's lending, investment and service activities within the bank's assessment area as provided for in Parts 76.8, 76.9 and 76.10 of the General Regulations of the Banking Board. The evaluation covers the years 2002 and 2003.

Statistics employed in this evaluation were derived from various sources. In addition to bank-specific loan information submitted by BoS, aggregate data for small business and HMDA-reportable loans were obtained from the Federal Financial Institutions Examination Council ("FFIEC") and PCi Corporation's CRAWiz® software. Demographic information within the evaluation reflects data from the 1990 U.S. Census, supplemented by median family income estimates for 2002 and 2003 from the U.S. Department of Housing and Urban Development ("HUD").

I. Lending Test: "High Satisfactory"

The bank's lending performance was evaluated pursuant to the following criteria: (1) Lending Activity; (2) Assessment Area Lending; (3) Geographic Distribution; (4) Borrower Characteristics; (5) Community Development Lending and (6) Flexible and/or innovative Lending Practices. The analysis of factors (1), (2) (3) and (4) above focused primarily on the bank's small business and HMDA-reportable loans. In evaluating the bank's performance, small business lending received the most weight because the bank's small business lending volume greatly exceeded the institution's HMDA-reportable lending activity.

Lending Activity: "High Satisfactory"

The bank's lending levels reflect good responsiveness to assessment area credit needs.

Small Business Loans

During the evaluation period, the bank's small business lending activity reflects good responsiveness to the credit needs of the assessment area.

According to lending data obtained from CRAWiz, BoS ranked 21st among 96 lenders during 2002 with a market share of 0.43% based on number of loans. In 2003, the bank was ranked 23rd among 100 small business lenders based on a market share of 0.33%.

HMDA-Reportable Loans

The bank's HMDA-reportable lending activity during the evaluation period reflects adequate responsiveness to assessment area credit needs.

In 2002, the bank achieved a market share of 0.08% for HMDA-reportable lending (based on number of loans) and ranked 123rd among 376 reporting lenders within the assessment area. During 2003, the bank's market share was 0.07% and its rank was 135th among 420 HMDA-reporting lenders.

The following chart shows the distribution of BoS's HMDA-reportable loan originations within the assessment area by loan type:

Distribution of HMDA-Reportable Loans by Product								
	2002				2003			
Product	#	%	($000)	%	#	%	($000)	%
Home Purchase	12	17.9	3,293	20.0	16	19.3	6,393	25.1
Refinance	41	61.2	12,644	76.8	66	79.5	18,780	73.8
Home Improvement	14	20.9	530	3.2	0	0.0	0	0.0
Multifamily	0	0.0	0	0.0	1	1.2	280	1.1
Total	**67**	**100.0**	**16,467**	**100.0**	**83**	**100.0**	**25,453**	**100.0**

Assessment Area Concentration: "High Satisfactory"

The bank originated a high percentage of its small business and HMDA-reportable loans within the assessment area.

<u>Small Business Loans</u>

In 2002, the bank originated 85.9% of its small business loans inside the assessment area. During 2003, the bank's assessment area concentration for small business loans fell slightly, to 83.4%.

<u>HMDA-Reportable Loans</u>

In 2002, 85.9% of the bank's total number of HMDA-reportable loans was originated inside the assessment area. In 2003, the number of HMDA-reportable loans originated by BoS in the assessment area increased by 23.9%, but its percentage of HMDA-reportable loans originated inside the assessment area decreased slightly, to 79.8%.

The following table shows the percentage BoS's small business and HMDA-reportable loans originated inside and outside of the assessment area:

Distribution of Loans Inside and Outside of the Assessment Area										
Loan Type	Number of Loans					Loans in Dollars (in thousands)				
	Inside		Outside		Total	Inside		Outside		Total
	#	%	#	%	#	$	%	$	%	$
Small Business Loans										
2002	214	85.9	35	14.1	249	38,803	76	12,275	24	51,078
2003	181	83.4	36	16.6	217	39,643	78.6	10,782	21.4	50,425
Subtotal	**395**	**84.8**	**71**	**15.2**	**466**	**78,446**	**77.3**	**23,057**	**22.7**	**101,503**
HMDA-Reportable Loans										
2002	67	85.9	11	14.1	78	16,467	52.9	14,664	47.1	31,131
2003	83	79.8	21	20.2	104	25,453	48.8	26,738	51.2	52,191
Subtotal	150	82.4	32	17.6	182	41,920	50.3	41,402	49.7	83,322
Total	**545**	**84.1**	**103**	**15.9**	**648**	**120,366**	**65.1**	**64,459**	**34.9**	**184,825**

Geographic Distribution of Loans: "Low Satisfactory"

The geographic distribution of BoS's lending reflects adequate dispersion throughout the assessment area.

Small Business Loans

The geographic distribution of small business loans reflects adequate dispersion throughout the assessment area. The following table shows the geographic distribution of small business loans for 2002 and 2003:

Distribution of Small Business Loans by Geography Income Level*								
2002								
Geography	**Bank**				**Aggregate**			
Income Level	#	%	$**	%	#	%	$**	%
Low	0	0.0	0	0.0	63	0.1	3,247	0.2
Moderate	27	12.6	6,262	16.1	9,568	20.1	274,856	20.2
Middle	129	60.3	22,681	58.5	31,197	65.4	889,821	65.5
Upper	58	27.1	9,860	25.4	6,831	14.3	191,177	14.1
NA	0	0.0	0	0.0	20	0.1	371	0.0
Total	214	100.0	38,803	100.0	47,679	100.0	1,359,472	100.0
2003								
Geography	**Bank**				**Aggregate**			
Income Level	#	%	$**	%	#	%	$**	%
Low	0	0.0	0	0.0	253	0.5	12,920	0.9
Moderate	27	14.9	6,655	16.8	10,562	20.0	312,259	20.5
Middle	125	69.1	27,073	68.3	32,576	61.5	917,137	60.3
Upper	29	16.0	5,915	14.9	9,545	18.0	278,796	18.3
NA	0	0.0	0	0.0	1	0.0	3	0.0
Total	181	100.0	39,643	100.0	52,937	100.0	1,521,115	100.0

* Geography income levels for 2002 data are based upon 1990 Census data on median family income figures for the MSA where the business is located. Geography income levels for 2003 data are based upon 2000 Census data. Low-income is defined as <50% of the MSA median, moderate-income is 50% to <80% of the MSA median income, middle-income is 80% to <120% and upper-income is at least 120%.

** In thousands.

In 2002, the bank achieved an LMI penetration ratio of 12.6% based on 214 small business loans it made within the assessment area. This penetration rate was well below the market aggregate's performance of 20.2%. In 2003, the bank's origination of small business loans inside the assessment area decreased to 181 loans; however, its LMI penetration rate improved to 14.9%. By comparison, the market aggregate posted an LMI penetration ratio of 20.5% during 2003.

HMDA-Reportable Loans

The geographic distribution of HMDA-reportable loans reflects adequate penetration throughout the assessment area. The following table shows the geographic distribution of HMDA-reportable loans compared to the aggregate for calendar years 2002 and 2003:

Distribution of HMDA-Reportable Loans by Geography Income Level*								
2002								
Geography	**Bank**				**Aggregate**			
Income Level	#	%	$**	%	#	%	$**	%
Low	0	0.0	0	0.0	71	0.1	10,172	0.1
Moderate	14	20.9	5,291	32.1	18,363	20.7	3,077,407	18.0
Middle	37	55.2	7,510	45.6	59,875	67.5	11,331,242	66.1
Upper	16	23.9	3,666	22.3	10,372	11.6	2,695,019	15.7
NA	0	0.0	0	0.0	73	0.1	10,837	0.1
Total	67	100.0	16,467	100.0	88,754	100.0	17,124,677	100.0
2003								
Geography	**Bank**				**Aggregate**			
Income Level	#	%	$**	%	#	%	$**	%
Low	0	0.0	0	0.0	374	0.3	59,862	0.2
Moderate	10	12.0	3,749	14.7	25,472	21.9	4,645,244	19.0
Middle	59	71.1	17,306	68.0	73,519	63.3	15,248,396	62.5
Upper	14	16.9	4,398	17.3	16,693	14.4	4,437,779	18.2
NA	0	0.0	0	0.0	1	0.1	350	0.1
Total	83	100.0	25,453	100.0	116,059	100.0	24,391,631	100.0

* Geography income levels for 2002 data are based upon 1990 Census data on median family income figures for the MSA of the mortgaged property. Geography income levels for 2003 data are based upon 2000 Census data. Low-income is defined as <50% of the MSA median, moderate-income is 50% to <80% of the MSA median income, middle-income is 80% to <120% and upper-income is at least 120%.
** Dollars are shown in thousands.

In 2002, the bank's LMI penetration rate was 20.9% based on 67 HMDA-reportable loans originated inside the assessment area. This penetration rate was similar to the market aggregate's performance of 20.8%. In 2003, the bank originated 83 HMDA-reportable loans inside the assessment area, approximately 12.0% of which were in LMI areas. This level of performance was well below both the previous year's performance and the current year's aggregate penetration ratio of 22.2%.

Borrower Characteristics: "High Satisfactory"

The distribution of loans by borrower income levels reflects good penetration among businesses of different revenue categories and adequate penetration among consumers of different income levels.

<u>Small Business Loans</u>

In 2002, 68.7% of the bank's total small business loans originated in the assessment area were extended to businesses with annual revenues of $1 million or less. In 2003, the bank's percentage of lending to smaller businesses remained high at 64.1%. For comparison, the market aggregate extended 32.1% and 38.9% of its small business loans to smaller businesses in 2002 and 2003, respectively.

The following table illustrates the distribution of loans based on business revenue size:

Distribution of Small Business Loans by Business Revenue Size								
2002								
Revenue Size	**Bank**				**Aggregate**			
	#	%	$*	%	#	%	$*	%
$1million or less	147	68.7	20,218	52.1	15,318	32.1	510,225	37.5
Over $1 million	66	30.8	18,435	47.5				
Revenue not reported	1	0.5	150	0.4				
Total	214	100.0	38,803	100.0	47,679	100.0	1,359,472	100.0
2003								
Revenue Size	**Bank**				**Aggregate**			
	#	%	$	%	#	%	$	%
$1million or less	116	64.1	23,063	58.2	20,581	38.9	608,532	40.0
Over $1 million	65	35.9	16,580	41.8				
Revenue not reported	0	0.0	0	0.0				
Total	181	100.0	39,643	100.0	52,937	100.0	1,521,115	100.0

* Dollars are shown in thousands.

<u>HMDA-Reportable Loans</u>

In 2002, 17.9% of the bank's HMDA-reportable loans were extended to LMI borrowers. For comparison, the market aggregate extended 28.5% of its HMDA-reportable loans to LMI borrowers. For 2003, both the bank's and the market aggregate's lending to LMI borrowers remained at levels similar to 2002. In 2003, the bank extended 16.8% of its total HMDA-reportable loans to LMI borrowers, compared to 27.2% for the market aggregate.

The following table shows the distribution of the bank's HMDA-reportable loans based on borrower income levels:

Distribution of HMDA-Reportable Loans by Borrower Income Level*								
2002								
Borrower Income Level	**Bank**				**Aggregate**			
	#	%	$**	%	#	%	$**	%
Low	2	3.0	80	0.5	5,173	5.8	505,708	3.0
Moderate	10	14.9	818	5.0	20,110	22.7	2,783,055	16.3
Middle	10	14.9	1,417	8.5	26,347	29.7	4,329,096	25.3
Upper	40	59.7	12,675	77.0	29,109	32.8	7,969,820	46.4
NA	5	7.5	1,477	9.0	8,015	9.0	1,536,998	9.0
Total	67	100.0	16,467	100.0	88,754	100.0	17,124,677	100.0
2003								
Borrower Income Level	**Bank**				**Aggregate**			
	#	%	$**	%	#	%	$**	%
Low	6	7.2	447	1.8	6,254	5.4	711,255	2.9
Moderate	8	9.6	834	3.3	25,355	21.9	3,989,602	16.4
Middle	15	18.1	2,431	9.6	36,014	31.0	6,791,644	27.9
Upper	45	54.3	19,381	76.0	37,886	32.6	10,621,852	43.5
NA	9	10.8	2,360	9.3	10,550	9.1	2,277,278	9.3
Total	83	100.0	25,453	100.0	116,059	100.0	24,391,631	100.0

* Borrower income level is based upon the Department of Housing and Urban Development's annual estimate of median family income ("MFI") figures for the MSA of the mortgaged property. Low-income is defined as <50% of the MSA MFI, moderate-income is 50% to <80%, middle-income is 80% to <120% and upper-income is at least 120%.
** Dollars are shown in thousands.

Community Development Loans: "Outstanding"

The bank's qualified community development lending totaled $14.1 million. This entire amount is new money.

Brief examples of the bank's qualified community development lending activities include:

- In 2002, the bank supported the delivery of affordable medical services to LMI individuals by extending two loans to separate nursing facilities. One was a commercial mortgage loan of $3 million and the other was a construction permanent loan of $4.9 million.

- During the evaluation period, the bank provided financing to two separate corporations located in a New York State Empire Zone. The credit facilities the bank extended to these companies totaled approximately $4 million. The purpose of the Empire Zone program is to give companies that increase employment in distressed or under-served areas an opportunity to operate on an almost tax-free basis for up to 10 years.

- In 2003, the bank provided $2.2 million in financing for a private developer to refurbish a six-story building containing 81 residential units. Approximately 96% of the units are affordable housing.

Innovative or Flexible Lending Practices: "Low Satisfactory"

The bank's use of innovative and/or flexible lending practices is limited.

BoS offers financing under the Small Business Administration's Section 504 program. This program allows for a higher loan-to-value ratio and a smaller equity injection than the bank's policy guidelines usually require. During the evaluation period, BoS extended 21 loans totaling $8.7 million under this program.

II. <u>Investment Test</u>: "Needs to Improve"

The investment test evaluates the bank's record of helping to meet the needs of its assessment area through qualified investments. Qualified investments are evaluated based on their dollar volume, their innovation or complexity, their responsiveness to community development needs, and the degree to which the investments are not routinely provided by private investors.

BoS's level of qualified investments during the evaluation period is poor, totaling only $66 thousand. The bank's qualified investments include:

- An equity investment of $50 thousand in the Nassau Suffolk Business Development Fund, LLC - The fund's mission is to provide up to $300 thousand in financing to individual minority business owners within Nassau and Suffolk Counties.

- Grants - During the evaluation period, the bank contributed $16 thousand to fund the Federal Home Loan Bank of New York's ("FHLB") Affordable Housing Program. This amount represents the bank's pro-rata share of the FHLB's prior-period earnings.

III. <u>Service Test</u>: "High Satisfactory"

The service test evaluates an institution's record of helping to meet the credit needs of its assessment area by reviewing the availability and effectiveness of the institution's systems for delivering both retail banking and community development services.

Retail Banking Services: "High Satisfactory"

<u>Accessibility of Delivery Systems</u>

The bank's retail service delivery systems are accessible to essentially all portions of the assessment area.

The bank has a network of 10 branches, including one branch in a moderate-income tract, seven branches in middle-income tracts and two branches in upper-income tracts. Each office is equipped with an automated teller machine ("ATM"). Three of the non-LMI branches are located in census tracts adjacent to LMI areas.

Changes in Branch Locations

During the evaluation period, the bank opened three branches. Two of these branches are located in middle-income geographies and the remaining branch is in upper-income geography. The three new branches are located in areas adjacent to LMI census tracts.

Reasonableness of Business Hours and Services in Meeting Assessment Area Needs

The bank's services are tailored to the convenience and needs of the assessment area. The bank's branches offer extended hours of service at least one evening per week. Each branch also offers Saturday hours. Eight of the 10 branches have drive-in facilities. The bank offers free checking account service to all customers.

Alternative delivery systems offered by the bank include:

- Bank-by-mail
- A 24-hour telephone system for conducting certain types of transactions
- Online banking for consumer and commercial customers.

Community Development Services: "Needs to Improve"

BoS's provision of community development services is limited to an officer serving on the loan committee of the Nassau-Suffolk Business Development Fund, LLC.

IV. Discrimination or Other Illegal Practices

Any practices intended to discourage applications for types of credit set forth in the banking institution's CRA Public File.

There were no practices noted that were intended to discourage applications for the types of credit offered by the institution.

Evidence of prohibited discriminatory or other illegal credit practices.

The most recent regulatory compliance exam of BoS was conducted concurrently with this assessment. That examination found satisfactory performance in terms of adherence to anti-discrimination and other applicable laws and regulations. No evidence of prohibited discrimination or other illegal credit practices was noted.

V. Process Factors

Activities conducted by the banking institution to ascertain the credit needs of its community, including the extent of the banking institution's efforts to communicate with members of its community regarding the credit services being provided by the banking institution.

The bank's lending officers maintain relationships with community organizations. Some of these organizations refer small business owners to the bank for loans.

The extent of the banking institution's marketing and special credit-related programs to make members of the community aware of the credit services offered by the banking institution.

The bank does not use traditional means to market its credit services. One of the methods used by the bank is participation in housing fairs and expos designed to attract potential borrowers.

The extent of participation by the banking institution's board of directors in formulating the banking institution's policies and reviewing its performance with respect to the purposes of the Community Reinvestment Act.

CRA matters are discussed at quarterly compliance and CRA committee meetings.

VI. Other Factors

Other factors that in the judgement of the Superintendent and Banking Board bear upon the extent to which a banking institution is helping to meet the credit needs of its entire community.

None noted.

GLOSSARY

Aggregate

The cumulative lending by all HMDA-reporting lenders in the same geographic area under evaluation.

Community Development

The term “community development” is defined to mean:

1. Affordable housing (including multifamily housing) for low- or moderate-income (“LMI”) individuals;
2. Community services targeted to LMI individuals;
3. Activities that promote economic development by financing business or farms that meet the size eligibility standards of the United States Small Business Administration (“SBA”) Development Company or Small Business Investment Company programs, or have gross annual incomes of $1 million or less;
4. Activities that revitalize or stabilize LMI geographies; and
5. Activities that seek to prevent defaults and/or foreclosures in loans included in (1) and (3), above.

A “community development loan” is defined as a loan that has as its *primary purpose* community development. This includes but is not limited to loans to:

- Borrowers for affordable housing rehabilitation and construction, including construction and permanent financing for multifamily rental property serving low or moderate income (“LMI”) persons;
- Nonprofit organizations serving primarily LMI or other community development needs;
- Borrowers to construct or rehabilitate community facilities that are located in LMI areas or that primarily serve LMI individuals;
- Financial intermediaries including community development financial institutions, community development corporations, minority- and women-owned financial institutions, community loan funds or pools, micro-finance institutions, and low-income or community development credit unions that primarily lend or facilitate lending to promote community development;
- Local, state and tribal governments for community development activities; and
- Borrowers to finance environmental clean-up or redevelopment of an industrial site as part of an effort to revitalize the LMI community in which the property is located.

A “qualified investment” is defined as a lawful investment, deposit, membership share or grant that has as its *primary purpose* community development. This includes but is not limited to investments, deposits, membership shares or grants in or to:

- Financial intermediaries (including community development financial institutions, community development corporations, minority- and women-owned financial institutions, community loan funds, micro-finance institutions and low-income or community development credit unions) that primarily lend or facilitate lending in LMI areas or to LMI individuals in order to promote community development;
- Organizations engaged in affordable housing rehabilitation and construction;
- Organizations, including, for example, small business investment corporations that promote economic development by financing small businesses;
- Facilities that promote community development in LMI areas or LMI individuals, such as youth programs, homeless centers, soup kitchens, health care facilities, battered women's centers, and alcohol and drug recovery centers;
- Projects eligible for low-income housing tax credits;
- State and municipal obligations, such as revenue bonds that specifically support affordable housing or other community development needs;
- Organizations serving LMI housing or other community development needs, such as counseling for credit, home ownership, home maintenance, and other financial services education; and
- Organizations supporting activities essential to the capacity of LMI individuals or geographies to utilize credit to sustain economic development, such as day care operations and job training programs that facilitate access to permanent jobs.

A "community development service" is defined as a service that has as its *primary purpose* community development, is related to the provision of financial services, and has not been considered in the evaluation of the banking institution's retail banking services. This includes but is not limited to:

- Providing technical assistance on financial matters to nonprofit, tribal or government organizations serving LMI housing or economic revitalization and development needs;
- Providing technical assistance on financial matters to small businesses or community development organizations;
- Lending employees to provide financial services for organizations facilitating affordable housing construction and rehabilitation or development of affordable housing;
- Providing credit counseling, home buyers and home maintenance counseling, financial planning or other financial services education to promote community development and affordable housing;
- Establishing school savings programs for LMI individuals;
- Providing seminars for LMI persons on banking and bank account record-keeping;
- Making ATM "Training Machines" available for extended periods at LMI community sites or at community facilities that serve LMI individuals; and
- Technical assistance activities to community development organizations such as:
    - Serving on a loan review committee;
    - Developing loan application and underwriting standards;
    - Developing loan processing systems;

- Developing secondary market vehicles or programs;
- Assisting in marketing financial services, including the development of advertising and promotions, publications, workshops and conferences;
- Furnishing financial services training for staff and management;
- Contributing accounting/bookkeeping services; and
- Assisting in fund raising, including soliciting or arranging investments.

Demand-Adjusted Penetration Rate

The number of owner-occupied loans made by the institution (or aggregate as appropriate) in a geographic area per thousand owner-occupied housing units in that area. Mathematically, it is arrived at by dividing the number of owner-occupied housing units into the number of loans made and then multiplying by 1,000.

Demand-Adjusted Penetration Ratio

A ratio that depicts geographic penetration of loans by comparing demand-adjusted lending in LMI areas with non-LMI areas. Mathematically, it is arrived at by dividing the demand-adjusted penetration rate in non-LMI areas into the demand-adjusted penetration rate in LMI areas and then expressed as a percentage.

A ratio of 100% means that the institution (or aggregate as appropriate) made an equal number of loans proportionally in LMI and non-LMI areas. Less than 100 percent would indicate less lending in LMI areas on the same basis compared to non-LMI areas, whereas over 100 percent would indicate a greater level of lending in LMI areas versus non-LMI areas.

Home Mortgage Disclosure Act ("HMDA")

The Home Mortgage Disclosure Act, enacted by Congress in 1975, and subsequently amended, requires institutions to annually report data about applications for residential (including multifamily) financing.

Loans to Small Businesses

Small business loans to businesses with gross annual revenues of $1 million or less.

Low or Moderate Income ("LMI") Geographies

Those census tracts or block numbering areas ("BNAs"), where according to the 1990 US Census, the median family income is less than 80% of the area median family income. In the case of tracted areas that are part of a Metropolitan Statistical Area ("MSA") or Primary Metropolitan Statistical Area ("PMSA"), this would relate to the median family income for the MSA or PMSA in which the tracts are located. In the case of BNAs and tracted areas that are not part of a MSA or PMSA, the area median family income would be the statewide nonmetropolitan median family income.

LMI Borrowers

Borrowers whose income, as reported on the loan application which the lender relied upon in making the credit decision, is less than 80% of the area median family income. In the case where the residential property is located in a MSA or PMSA, this would relate to the median family income for that MSA or PMSA. Otherwise, the area median family income would be the statewide nonmetropolitan median family income. In all instances, the area median family incomes used to measure borrower income levels are updated annually by the U.S. Department of Housing and Urban Development ("HUD").

LMI Individuals/Persons

Those individuals, whose income is less than 80% of the area median family income. In the case where the individual resides in a MSA or PMSA, this would relate to the median family income for that MSA or PMSA. Otherwise, the area median family income would be the statewide nonmetropolitan median family income. In all instances, the area median family incomes used to measure individual income levels are updated annually by HUD.

Small Business Loans

Loans to businesses with original amounts of $1 million or less.