



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

TO: Banking Institutions Subject to New York State CRA Examinations  
FROM: Benjamin M. Lawsky, Superintendent  
DATE: July 31, 2013  
RE: Industry Letter: CRA Credit in Designated Disaster Areas and the New York Rising Community Reconstruction Program

The New York State Department of Financial Services (the “Department”) recognizes that many communities across New York State continue to rebuild in the aftermath of Superstorm Sandy, Hurricane Irene and Tropical Storm Lee. New York State-chartered banking institutions have an important role in this ongoing rebuilding effort through their Community Reinvestment Act (“CRA”) programs.

The following information is intended to clarify and reinforce the guidance previously provided by the Department on CRA eligibility for efforts to revitalize or stabilize designated disaster areas. The Department considers this guidance to be consistent with federal regulatory guidance on CRA designated disaster areas.<sup>1</sup> The Department is also providing information on enhanced CRA consideration for projects identified through the New York Rising Community Reconstruction Program through which local communities will develop government disaster recovery plans.

#### **CRA Eligible Activities in Disaster Areas**

The definition of “community development” in New York State’s CRA regulation (Part 76) includes an institution's efforts to revitalize or stabilize a “designated disaster area”.<sup>2</sup> A banking institution’s effort to assist in the revitalization or stabilization of a designated disaster area, without regard to the income level of the affected areas or individuals, is eligible for CRA credit.

The Department will deem an activity to be CRA eligible by revitalizing or stabilizing a designated disaster area when the activity:

- (i) Is related to disaster recovery;
- (ii) Helps retain existing or attract new businesses or residents; and
- (iii) Is consistent with a bona fide government revitalization, stabilization or disaster recovery plan.

<sup>1</sup> See the *Designated Disaster Areas and Consideration Under the Community Reinvestment Act Fact Sheet* published by the Office of the Comptroller of the Currency, October 2012 which can be found at <http://www.occ.gov/topics/community-affairs/publications/fact-sheets/fact-sheet-designated-disaster-areas-cra.pdf>

<sup>2</sup> 3 N.Y. Comp. Codes R. & Regs. § 76.2(f)(4).

Examples of CRA qualifying activities in designated disaster areas include, but are not limited to:

- Providing financing to help rebuild, retain or attract businesses that employ local residents;
- Providing financing for essential community-wide infrastructure, community services, and rebuilding needs;
- Providing financing to build or renovate housing to retain or attract residents in the area; or
- Providing housing, financial assistance, and services either to individuals in designated disaster areas or to individuals who have been displaced from those areas.

While the Department generally will consider all activities relating to disaster recovery that revitalize or stabilize a designated disaster area, regardless of the income of the individuals or geographies affected, greater weight will be given to those activities that are most responsive to community needs, especially the needs of low- or moderate-income individuals or neighborhoods.

#### **Preference for Activities Identified Through Community Reconstruction Program Plans**

Activities in designated disaster areas that are consistent with a bona fide government revitalization, stabilization or disaster recovery plan are presumed to be CRA eligible by the Department and by federal agencies.<sup>3</sup> The New York State Governor's Office has established the New York Rising Community Reconstruction Program (the "Program") as the process for local communities to develop their disaster recovery and rebuilding plans. This Program will help communities identify safe, resilient and innovative reconstruction projects based on community-driven plans that consider current damage from recent storms, future threats from disasters and the community's economic needs. One hundred two communities have been identified in designated disaster areas in New York State to participate in the Program.<sup>4</sup>

Each community in the Program will convene a Planning Committee that includes, among others, a representative from the County, Town or Village, elected legislative representatives, local residents and directors of established organizations and businesses in the community. This Planning Committee will be responsible for developing the content of a disaster recovery plan (the "Plan"). The Plan will provide a list of projects and actions needed for the community to recover, improve its economy, and reduce future natural disaster damage. The New York Rising Community Reconstruction Program planning process is expected to be completed in early 2014.

Plans will develop rebuilding strategies in a variety of areas including economic development, health and social services, housing, infrastructure and natural and cultural resources. Plans will also identify specific projects that will increase resilience while protecting vulnerable populations and promoting sound economic development. Some of these projects will require private sector financing in addition to public resources. Banking institutions are encouraged to

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<sup>3</sup> CRA Q&As 12 C.F.R. 12(g)(4)(ii)

<sup>4</sup> A list of Program communities can be found at <http://www.governor.ny.gov/press/07182013-ny-rising-communities>.

work with the local Planning Committees and to consider opportunities for CRA eligible projects where appropriate.

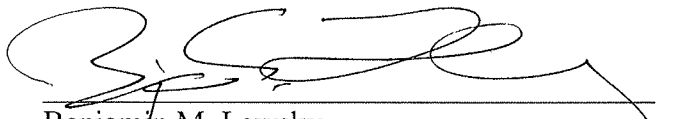
The Department will give special consideration to activities identified in New York Rising Community Reconstruction Plans in two ways:

1. Activities identified through Plans will be presumed to be CRA eligible. In other words, banking institutions will have a streamlined process to document CRA eligibility for financing or otherwise assisting projects identified in these Plans.
2. The highest possible qualitative credit will be given to projects identified in the Plans. The Department will consider projects identified in Plans to be highly responsive to local community needs.

Once New York Rising Community Reconstruction Plans have been finalized and projects have been identified, the Department will actively encourage banking institutions to finance or otherwise assist with the implementation of priority projects identified in Plans by convening meetings with banking institutions and Community Reconstruction Program representatives.

More information on the New York Rising Community Reconstruction Program can be found at <http://nysandyhelp.ny.gov/community-reconstruction-program>.

If you have any questions regarding your institution's efforts to assist individuals or geographies affected by a disaster, please do not hesitate to contact the Department's Director of Consumer Examinations and Community Development at (212) 709 -1671.



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Superintendent of Financial Services