

Summary of Amendment to 3 NYCRR Part 76 (Compliance with Community Reinvestment Act Requirements)

The Department of Financial Services (“Department”) provides this description of the subject, purpose, and substance of the proposed amendment in accordance with State Administrative Procedure Act § 202(1)(f)(v). The full text of the proposed amendment is available on the Department’s website at: https://www.dfs.ny.gov/industry_guidance/regulations/proposed_banking.

The proposed amendment to the implementing regulations of the New York State Community Reinvestment Act (“CRA”), New York Banking Law (“BL”) § 28-b, would allow the Department to execute a newly imposed statutory obligation related to its CRA examination duties.

A recent amendment to BL § 28-b requires the Superintendent of Financial Services to evaluate covered institutions’ performance according to a new criterion, specifically, the extent to which they offer and provide credit and technical assistance programs to minority- and women-owned businesses (“MWOBs”). See L.2019, c. 264, BL § 28-b(3)(a)(8)-(a)(9). Existing regulations provide for the collection and submission of data necessary for evaluation of covered institutions according to pre-amendment criteria, but the Department does not have an existing source of information with which to perform the newly required assessment of covered banking institutions’ offering of credit to MWOBs. Therefore, the Department is proposing an amendment to 3 NYCRR Part 76, including a new Section 76.16, that would provide for the collection of necessary data and submission of that data to the Department by covered banking institutions.

Proposed new Section 76.16 constitutes the largest element of the proposed changes. The provisions of proposed Section 76.16 establish how covered banking institutions should solicit, collect, store, and report the information relating to their provision of credit to MWOBs, including, among other things, when requests for information should be made, the right of a credit applicant to refuse to offer information in response to such requests, that the information provided may not be used for any discriminatory purpose, that to the extent feasible,

underwriters should not have access to the information provided, the length of time the information gathered must be preserved by the covered institution, and alternative methods of compliance.

Other amendments include the addition of definitions for the terms, “minority,” “minority-owned business,” and “women-owned business,” and the addition of references to minority- and women-owned businesses as appropriate throughout the text of 3 NYCRR Part 76.