



PUBLIC SUMMARY

COMMUNITY REINVESTMENT ACT PERFORMANCE EVALUATION OF THE BERKSHIRE BANK

MARCH 31, 2022

New York State Department of Financial Services
Consumer Protection and Financial Enforcement Division
One State Street, New York NY 10004

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 Department of Financial Services concerning the safety and soundness of this financial institution.

TABLE OF CONTENTS

Sections

- I. **General Information**
 - II. **Overview of Institution’s Performance**
 - III. **Performance Context**
 - A. Institution Profile
 - B. Assessment Area
 - C. Demographic & Economic Data
 - D. Community Information
 - IV. **Performance Standards and Assessment Factors**
 - A. Lending Test
 - B. Community Development Test
 - C. Additional Factors
 - V. **Glossary**
-

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

I - GENERAL INFORMATION

This document is an Evaluation of the Community Reinvestment Act (“CRA”) performance of The Berkshire Bank (“TBB” or the “Bank”) prepared by the New York State Department of Financial Services (“DFS” or the “Department”). This evaluation represents the Department’s current assessment and rating of the institution’s CRA performance based on an evaluation conducted as of March 31, 2022.

Section 28-b of the New York Banking Law, as amended, requires that when evaluating certain applications, the Superintendent of Financial Services 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 Superintendent (“GRS”) implements Section 28-b and further requires that the Department assess the CRA performance records of regulated financial institutions. Part 76 establishes the framework and criteria by which the Department will evaluate institutions’ performance. Section 76.5 further provides that the 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 in 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 of banking institutions are primarily based on a review of performance tests and standards described in Section 76.7 and detailed in Sections 76.8 through 76.13. The tests and standards incorporate the 12 assessment factors contained in Section 28-b of the New York Banking Law.

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

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

II - OVERVIEW OF INSTITUTION'S PERFORMANCE

The Department evaluated TBB according to the intermediate small banking institutions performance criteria pursuant to Sections 76.7 and 76.12 of the GRS. The evaluation period included calendar years 2017, 2018, 2019, 2020 and 2021 for the lending test and the period from January 1, 2017 to March 31, 2022, for the community development test. TBB is rated “2,” indicating a “Satisfactory” record of helping to meet community credit needs.

The rating is based on the following factors:

A. Lending Test: Satisfactory

1. Loan-to-Deposit Ratio and Other Lending-Related Activities: Satisfactory

TBB's average loan-to-deposit (“LTD”) ratio was satisfactory considering its size, business strategy, financial condition, and peer group activity.

TBB's average LTD ratio of 62.3% for the evaluation period was well below the peer's average LTD ratio of 79.4%. However, TBB's average LTD ratio for the current evaluation was an improvement over its 52.5% average LTD ratio from the prior evaluation, while the LTD ratio of its peer remained similar to the prior period's ratio of 79%.

2. Assessment Area Concentration: Outstanding

During the evaluation period, TBB originated 90.8% by number and 93.1% by dollar value of its HMDA-reportable and small business within the assessment area, demonstrating an outstanding concentration of lending.

3. Distribution by Borrower Characteristics: Satisfactory

TBB's HMDA-Reportable and small business lending demonstrated a satisfactory distribution of loans among individuals of different income levels and businesses of different revenue sizes.

4. Geographic Distribution of Loans: Needs to Improve

TBB's origination of loans in census tracts of varying income levels demonstrated a less than satisfactory distribution of lending.

The Bank's rates of small business lending in LMI geographies of 16.9% by number and 17.1% by dollar value, were well below the aggregate rates of 31.4% and 25.6%, respectively. The Bank's HMDA lending rates of 26.9% by number and 62.6% by dollar value compared favorably to the aggregate's 24.4% and 27.7%, respectively. However, TBB did not originate any loans in LMI census tracts in three years (2018, 2020 and 2021) of the five year evaluation period.

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

5. Action Taken in Response to Written Complaints with Respect to CRA: N/A

Neither DFS nor TBB received any written complaints during the evaluation period regarding TBB's CRA performance.

B. Community Development Test: Satisfactory

TBB's community development performance demonstrated a satisfactory responsiveness to the community development needs of its assessment area through community development loans, qualified investments, considering the Bank's capacity, and the need for and availability of opportunities for community development in its assessment area.

1. Community Development Lending: Outstanding

During the evaluation period, TBB originated \$81 million in new community development loans and had \$17.3 million outstanding from prior evaluation periods. This demonstrated an outstanding level of community development lending over the course of the evaluation period.

2. Qualified Investments: Satisfactory

During the evaluation period, TBB made \$8.2 million in qualified investments and had \$3.1 million outstanding from prior evaluation periods. This demonstrated a satisfactory level of qualified investments over the course of the evaluation period.

3. Community Development Services: Needs to Improve

TBB demonstrated a less than satisfactory level of community development services over the course of the evaluation period.

4. Responsiveness to Community Development Needs:

TBB demonstrated a satisfactory level of responsiveness through community development lending and investments.

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

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

III - PERFORMANCE CONTEXT

A. Institution Profile

Chartered in 1989, TBB is a commercial bank headquartered in New York, New York. The Bank is owned by Berkshire Bancorp, Inc., a one-bank holding company also headquartered in New York City.

TBB operates eight full-service banking offices and one limited-service banking office in New York and one full-service banking office in Bergen County, New Jersey. The Bank’s full-service banking offices in New York are located in the following counties: three in New York, three in Kings, and two in Orange. TBB’s limited-service branch is also located in Orange County and serves the residents of the Glen Arden Life Care Retirement Community. Supplementing the New York banking offices is an automated teller machine (“ATM”) network consisting of one ATM at each of its full-service branch offices.

TBB offers a variety of business and retail consumer banking products and services, which include personal checking and savings accounts, business checking accounts, commercial and residential mortgages. The Bank also offers mobile and online banking services such as remote deposit capture, bill pay and e-Statements.

In its Consolidated Report of Condition (the “Call Report”) as of December 31, 2021, filed with the Federal Deposit Insurance Corporation (“FDIC”), TBB reported total assets of \$671.4 million, of which \$297.8 million were net loans and lease financing receivables. The Bank also reported total deposits of \$540.5 million resulting in an LTD ratio of 55.1%. According to the latest available comparative deposit data as of June 30, 2021, TBB obtained a market share of 0.03%, or \$524.4 million in a market of \$1.9 trillion, ranking it 62nd among 123 deposit-taking institutions in its assessment area.

The following is a summary of the Bank’s loan portfolio, based on Schedule RC-C of the Bank’s December 31, 2017, December 31, 2018, December 31, 2019, December 31, 2020, and December 31, 2021, Call Reports:

TOTAL GROSS LOANS OUTSTANDING										
Loan Type	12/31/2017		12/31/2018		12/31/2019		12/31/2020		12/31/2021	
	\$000's	%	\$000's	%	\$000's	%	\$000's	%	\$000's	%
1-4 Family Residential Mortgages	51,437	13.5	45,772	12.1	43,681	12.3	44,325	13.7	39,919	12.9
Commercial & Industrial Loans	5,330	1.4	7,773	2.0	6,363	1.8	5,595	1.7	3,814	1.2
Commercial Mortgage Loans	183,145	48.0	178,961	47.1	193,592	54.6	189,118	58.4	186,063	60.3
Multifamily Mortgages	36,194	9.5	35,018	9.2	48,019	13.5	20,553	6.4	17,431	5.7
Consumer Loans	1,217	0.3	1,328	0.3	678	0.2	1,894	0.6	939	0.3
Construction Loans	91,682	24.0	101,068	26.6	54,816	15.5	58,114	18.0	50,533	16.4
Other Loans	5,018	1.3	4,906	1.3	4,160	1.2	4,001	1.2	9,692	3.1
Lease Financing	7,578	2.0	4,904	1.3	3,186	0.9	0	0.0	0	0.0
Total Gross Loans	381,601		379,730		354,495		323,600		308,391	

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

As illustrated in the above table, TBB is primarily a commercial lender with 60.3% of its loan portfolio in commercial mortgage loans, while 12.9% and 5.7% of its loan portfolio is in one-to-four family residential and multifamily mortgage loans, respectively.

Examiners did not find evidence of financial or legal impediments that had an adverse impact on TBB's ability to meet the credit needs of its community.

B. Assessment Area

The Bank's assessment area is comprised of Bronx, Kings, New York, Orange, and Queens counties.

There are 2,136 census tracts in the Bank's assessment area, of which 294 are low-income, 576 are moderate-income, 651 are middle-income, 552 are upper-income, and 63 are tracts with no income indicated.

Assessment Area Census Tracts by Income Level							
County	N/A	Low	Mod	Middle	Upper	Total	LMI %
Bronx	7	140	99	60	33	339	70.5
Kings	14	95	260	230	162	761	46.6
New York	15	34	57	21	161	288	31.6
Orange	0	9	14	37	19	79	29.1
Queens	27	16	146	303	177	669	24.2
Total	63	294	576	651	552	2,136	40.7

C. Demographic & Economic Data

The assessment area had a population of 8,329,646 during the evaluation period. Approximately 12.6% of the population were over the age of 65 and 19.1% were under the age of 16.

Of the 1,831,313 families in the assessment area, 32.7% were low-income, 16.3% were moderate-income, 15.7% were middle-income and 35.2% were upper income. There were 3,073,021 households in the assessment area, of which 19.4% had income below the poverty level and 4.11% were on public assistance. The weighted average median family income was \$70,179.

There were 3,383,192 housing units within the assessment area, of which 38.6% were one-to-four family units and 61.1% were multifamily units. A majority (65.3%) of the housing units were rental units while 28.5% were owner-occupied. Of the total 2,109,487 rental-occupied units, 52.8% were in LMI census tracts while 46.9% were in middle- and upper-income census tracts. Average monthly gross rent was \$1,344.

There were 1,059,071 non-farm businesses in the assessment area. Of these, 91.4% were businesses with reported revenues of less than or equal to \$1 million, 3.5% reported revenues of more than \$1 million and 5.1% did not report their revenues. Of the businesses in the assessment area, 97.1% were businesses with less than fifty employees while 95.1% operated from a single

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

location. The largest industries in the area were services (34%), followed by retail trade (11.9%) and finance, insurance & real estate (9.4%), while (30.8%) of businesses in the assessment area were not classified.

According to the New York State Department of Labor, New York County had the lowest five-year average unemployment rate (5.6%) of the five counties in the assessment area and a lower rate than New York State, while Bronx County had the highest five-year average unemployment rate (9.4%). Annual unemployment rates for New York State and all counties in the assessment area increase significantly from 2019 to 2020, due to the emergence of the COVID-19 pandemic, which caused disruptions in the laborforce with massive layoffs.

Assessment Area Unemployment Rate						
	Statewide	Bronx	Kings	New York	Orange	Queens
2017	4.6	6.2	4.6	4	4.5	3.9
2018	4.1	5.6	4.2	3.6	3.9	3.6
2019	3.8	5.2	4	3.4	3.6	3.4
2020	9.9	16.2	12.6	9.6	8	12.6
2021	6.9	13.6	10.1	7.6	4.7	9.6
Five-year average	5.9	9.4	7.1	5.6	4.9	6.6

D. Community Information

As part of the evaluation process, DFS examiners conducted interviews with representatives of two community organizations operating in TBB’s assessment area.

The first interview was conducted with the president & executive director of a Business Improvement District (“BID”). The BID aims to promote economic development and revitalization of the area, and maintain a diversity of commercial, educational, artistic, historic and social characteristics for the benefit of businesses, property owners, and residents. The president stated that prior to the COVID-19 pandemic, economic activities were thriving in the area; however, due to the pandemic many small businesses went out of business due to loss in revenue. Currently, economic activities are improving with the emergence of new types of businesses in the area, such as healthcare facilities, e-bike retail stores, delivery services and quick service restaurants. The president identified opportunities for small business and micro lending, while noting the lack of community banks in the area.

The second interview was held with officers of a nonprofit organization whose mission is to preserve and develop safe and affordable housing as a basic human right. The organization also aims to sustain and develop an economic, racial, and cultural diversity by promoting knowledge, initiative, and concerned action to advance individual and common interest. The interviewees stated that due to gentrification, some census tracts income levels have changed from low- and moderate-income to middle- and upper-income census tracts making it extremely difficult for LMI individuals and families to find affordable housing. The interviewees identified affordable housing and more bank branches and ATMs among the primary needs in the assessment area.

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

IV - PERFORMANCE STANDARDS AND ASSESSMENT FACTORS

The Department evaluated TBB under the intermediate small banking institution performance criteria in accordance with Sections 76.7 and 76.12 of the GRS, which consist of the lending test and the community development test.

The lending test includes:

1. Loan-to-deposit ratio and other lending-related activities;
2. Assessment area concentration;
3. Distribution of loans by borrower characteristics;
4. Geographic distribution of loans; and
5. Action taken in response to written complaints regarding CRA.

The community development test includes:

1. Community development lending;
2. Community development investments;
3. Community development services; and
4. Responsiveness to community development needs.

DFS also considered the following factors in assessing the bank's record of performance:

1. The extent of participation by the board of directors or board of trustees in formulating CRA policies and reviewing CRA performance;
2. Evidence of any practices intended to discourage credit applications;
3. Evidence of prohibited discriminatory or other illegal credit practices;
4. Record of opening and closing offices and providing services at offices; and
5. Process factors, such as activities to ascertain credit needs and the extent of marketing and special credit related programs.

DFS derived statistics employed in this Evaluation from various sources. TBB submitted bank-specific information both as part of the examination process and on its Call Report, submitted to the FDIC. DFS obtained aggregate lending data from the Federal Financial Institutions Examination Council ("FFIEC") and deposit data from the FDIC. DFS obtained LTD ratios from information shown in the Bank's Uniform Bank Performance Report, compiled by the FFIEC from Call Report data.

DFS derived the demographic data referred to in this report from the 2010 U.S. Census and the FFIEC. DFS based business data on Dun & Bradstreet reports, which Dun & Bradstreet updates annually. DFS obtained unemployment data from the New York State Department of Labor.

The evaluation period included calendar years 2017, 2018, 2019, 2020 and 2021 for the lending test and the period from January 1, 2017 to March 31, 2022, for community development activities.

Examiners considered TBB's HMDA-reportable and small business loans in evaluating factors (2), (3) and (4) of the lending test noted above.

HMDA-reportable and small business loan data evaluated in this performance evaluation represented actual originations.

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

TBB is not required to report HMDA and small business loan data, so TBB's HMDA and small business lending are not included in the aggregate data. The aggregate data are shown only for comparative purposes.

TBB during the five-year evaluation period made only 26 HMDA-reportable loans, of which 20 were one to four family loans and six were multifamily loans. This low loan volume does not provide for a meaningful analysis. Therefore, DFS assessed the Bank's HMDA-reportable lending only for the assessment area criterion of the lending test.

In its prior Community Reinvestment Act Performance Evaluation as of December 31, 2016, DFS assigned TBB a rating of "4," reflecting a "Needs to Improve".

CRA Rating: Satisfactory

A. Lending Test: Satisfactory

TBB's HMDA-reportable and small business activities were satisfactory in light of TBB's size, business strategy, and financial condition, as well as aggregate and peer group activity and the demographic characteristics and credit needs of the assessment area.

1. Loan-to-Deposit Ratio and other Lending-Related Activities: Satisfactory

TBB's average LTD ratio was satisfactory considering its size, business strategy, financial condition and peer group activity.

TBB's average LTD ratio for the evaluation period was 62.3%, which was an improvement over the 52.5% it reported during the prior evaluation period. As a result, the gap between TBB's ratio and its peer group's ratio decreased to 17.1 percentage points from 26.5 percentage points at the prior evaluation period. Nevertheless, TBB's average LTD ratio was well below its peer group's average LTD ratio of 79.4%,

The table below shows TBB's LTD ratios in comparison with its peer group's ratios for the 20 quarters of this evaluation.

Loan-to-Deposit Ratios																					
	2017	2017	2017	2017	2018	2018	2018	2018	2019	2019	2019	2019	2020	2020	2020	2020	2021	2021	2021	2021	Avg
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
Bank	62.0	61.8	64.2	67.8	66.8	68.4	65.3	62.0	64.1	66.8	71.4	68.0	61.5	54.2	56.7	57.5	57.2	59.5	56.7	55.1	62.3
Peer	80.4	81.7	82.1	82.2	81.7	82.8	83.2	83.1	82.2	83.2	82.9	82.4	81.9	80.8	80.0	75.8	72.3	70.9	69.4	67.9	79.4

2. Assessment Area Concentration: Outstanding

During the evaluation period, TBB originated 90.8% by number and 93.1% by dollar value of its total HMDA-reportable and small business loans within the assessment area, demonstrating an outstanding concentration of lending.

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

a. HMDA-Reportable Loans:

During the evaluation period, TBB originated 89.7% by number and 96.2% by dollar value of its HMDA-reportable loans within the assessment area.

This substantial majority of lending inside of TBB’s assessment area reflects an outstanding concentration of lending.

b. Small Business Loans:

During the evaluation period, TBB originated 90.8% by number and 93.1% by dollar value of its small business loans within the assessment area.

This substantial majority of lending inside of TBB’s assessment area reflects an outstanding concentration of lending.

The following table shows the percentages of TBB’s HMDA-reportable and small business 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
	#	%	#	%		\$	%	\$	%	
HMDA-Reportable										
2017	9	100.0%	0	0.0%	9	24,854	100.0%	0	0.0%	24,854
2018	3	75.0%	1	25.0%	4	702	77.3%	206	22.7%	908
2019	9	90.0%	1	10.0%	10	5,963	92.3%	500	7.7%	6,463
2020	5	83.3%	1	16.7%	6	3,403	85.0%	600	15.0%	4,003
2021	3	75.0%	1	25.0%	4	1,348	90.6%	140	9.4%	1,488
Subtotal	26	89.7%	3	10.3%	29	36,270	96.2%	1,306	3.5%	37,716
Small Business										
2017	14	87.5%	2	12.5%	16	3,926	93.8%	260	6.2%	4,186
2018	16	94.1%	1	5.9%	17	1,161	91.3%	110	8.7%	1,271
2019	9	90.0%	1	10.0%	10	2,530	97.3%	70	2.7%	2,600
2020	11	91.7%	1	8.3%	12	2,757	91.7%	250	8.3%	3,007
2021	9	90.0%	1	10.0%	10	2,393	90.5%	250	9.5%	2,643
Subtotal	59	90.8%	6	9.2%	65	12,767	93.1%	940	6.9%	13,707
Grand Total	85	90.4%	9	9.6%	94	49,037	95.4%	2,246	4.4%	51,423

3. Distribution by Borrower Characteristics: Satisfactory

TBB’s small business lending demonstrated a satisfactory distribution of loans among individuals of different income levels and businesses of different revenue sizes.

During the evaluation period, TBB originated 54.2% by number and 56.3% by dollar value of its small business loans to businesses with gross annual revenue of \$1 million or less, comparing favorably to the aggregate’s average of 41.6% and 23.5% respectively. TBB and the aggregate

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

trailed the business demographics of the assessment area which indicates that 85.6% to 91.4% of the businesses in the assessment area had annual revenue of \$1 million or less.

The following table provides a summary of the distribution of TBB’s small business loans by the revenue size of the business.

Distribution of Small Business Lending by Revenue Size of Business									
2017									
Rev. Size	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	
Rev. <= \$1MM	9	64.3%	2,360	60.1%	116,704	51.7%	2,312,150	34.2%	85.6%
Rev. > \$1MM	5	35.7%	1,566	39.9%					7.4%
Rev. Unknown	-	0.0%	0	0.0%					7.1%
Total	14		3,926		225,651		6,767,689		
2018									
Rev. Size	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	
Rev. <= \$1MM	8	50.0%	455	39.2%	100,079	41.2%	1,968,265	28.1%	85.8%
Rev. > \$1MM	7	43.8%	698	60.1%					7.1%
Rev. Unknown	1	6.3%	8	0.7%					7.1%
Total	16		1,161		243,029		7,002,450		
2019									
Rev. Size	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	
Rev. <= \$1MM	5	55.6%	2,030	80.2%	123,188	45.9%	2,142,904	28.4%	87.8%
Rev. > \$1MM	4	44.4%	500	19.8%					6.0%
Rev. Unknown	-	0.0%	0	0.0%					6.2%
Total	9		2,530		268,308		7,556,555		
2020									
Rev. Size	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	
Rev. <= \$1MM	6	54.5%	1,281	46.5%	95,232	35.0%	2,445,622	18.0%	90.7%
Rev. > \$1MM	5	45.5%	1,476	53.5%					4.4%
Rev. Unknown	-	0.0%		0.0%					4.9%
Total	11		2,757		272,087		13,585,950		
2021									
Rev. Size	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	
Rev. <= \$1MM	4	44.4%	1,058	44.2%	117,206	36.8%	2,068,229	17.8%	91.4%
Rev. > \$1MM	5	55.6%	1,335	55.8%					3.5%
Rev. Unknown	-	0.0%	0	0.0%					5.2%
Total	9		2,393		318,603		11,603,740		
GRAND TOTAL									
Rev. Size	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	
Rev. <= \$1MM	32	54.2%	7,184	56.3%	552,409	41.6%	10,937,170	23.5%	
Rev. > \$1MM	26	44.1%	5,575	43.7%					
Rev. Unknown	1	1.7%	8	0.1%					
Total	59		12,767		1,327,678		46,516,384		

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

4. Geographic Distribution of Loans: Needs to Improve

The distribution of TBB’s small business loans among census tracts of varying income levels was less than satisfactory.

During the evaluation period, TBB made 59 small business loans, of which 10 loans were originated in LMI census tracts. This 10 loans combined were originated during 2017, 2018 and 2020; no small business loans were originated in LMI census tracts in 2019 and 2021. As a result, the Bank’s average rates of lending in LMI geographies of 16.9% by number and 17.1% by dollar trailed the aggregate rates of 31.4% and 25.6%, respectively.

The following table provides a summary of the distribution of TBB’s small business loans by the income level of the geography where the businesses were located.

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

Distribution of Small Business Lending by Geographic Income of the Census Tract									
2017									
Geographic Income	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Low	2	14.3%	1,528	38.9%	28,448	12.6%	735,375	10.9%	11.5%
Moderate	1	7.1%	165	4.2%	46,333	20.5%	1,178,998	17.4%	20.9%
LMI	3	21.4%	1,693	43.1%	74,781	33.1%	1,914,373	28.3%	32.4%
Middle	1	7.1%	791	20.1%	44,214	19.6%	1,145,374	16.9%	20.0%
Upper	10	71.4%	1,442	36.7%	101,307	44.9%	3,415,328	50.5%	44.7%
Unknown	0	0.0%		0.0%	5,349	2.4%	292,614	4.3%	2.9%
Total	14		3,926		225,651		6,767,689		
2018									
Geographic Income	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Low	3	18.8%	45	3.9%	29,233	12.0%	764,800	10.9%	11.5%
Moderate	3	18.8%	36	3.1%	49,950	20.6%	1,258,093	18.0%	20.8%
LMI	6	37.5%	81	7.0%	79,183	32.6%	2,022,893	28.9%	32.3%
Middle	0	0.0%	0	0.0%	47,822	19.7%	1,186,272	16.9%	20.0%
Upper	10	62.5%	1,080	93.0%	110,089	45.3%	3,482,778	49.7%	44.9%
Unknown	0	0.0%	0	0.0%	5,935	2.4%	310,507	4.4%	2.9%
Total	16		1,161		243,029		7,002,450		
2019									
Geographic Income	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Low	0	0.0%	0	0.0%	26,902	10.0%	684,300	9.1%	9.1%
Moderate	0	0.0%	0	0.0%	55,057	20.5%	1,350,636	17.9%	21.3%
LMI	0	0.0%	0	0.0%	81,959	30.5%	2,034,936	26.9%	30.4%
Middle	6	66.7%	880	34.8%	57,328	21.4%	1,389,951	18.4%	22.0%
Upper	3	33.3%	1,650	65.2%	122,027	45.5%	3,737,044	49.5%	45.0%
Unknown	0	0.0%	0	0.0%	6,994	2.6%	394,624	5.2%	2.7%
Total	9		2,530		268,308		7,556,555		
2020									
Geographic Income	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Low	1	9.1%	415	15.1%	25,600	9.4%	980,470	7.2%	9.1%
Moderate	0	0.0%	0	0.0%	53,979	19.8%	2,104,841	15.5%	21.0%
LMI	1	9.1%	415	15.1%	79,579	29.2%	3,085,311	22.7%	30.1%
Middle	5	45.5%	931	33.8%	56,533	20.8%	2,192,015	16.1%	21.6%
Upper	5	45.5%	1,411	51.2%	128,330	47.2%	7,588,834	55.9%	45.6%
Unknown	0	0.0%	0	0.0%	7,645	2.8%	719,790	5.3%	2.8%
Total	11		2,757		272,087		13,585,950		
2021									
Geographic Income	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Low	0	0.0%	0	0.0%	31,556	9.9%	907,640	7.8%	10.0%
Moderate	0	0.0%	0	0.0%	69,888	21.9%	1,960,449	16.9%	22.2%
LMI	0	0.0%	0	0.0%	101,444	31.8%	2,868,089	24.7%	32.2%
Middle	6	66.7%	1,133	47.3%	73,514	23.1%	2,090,125	18.0%	22.4%
Upper	3	33.3%	1,260	52.7%	135,504	42.5%	6,080,150	52.4%	43.0%
Unknown	0	0.0%	0	0.0%	8,141	2.6%	565,376	4.9%	2.4%
Total	9		2,393		318,603		11,603,740		
GRAND TOTAL									
Geographic Income	Bank				Aggregate				Bus.Dem.
	#	%	\$000's	%	#	%	\$000's	%	%
Low	6	10.2%	1,988	15.6%	1,320	10.7%	3,650,000	8.8%	
Moderate	4	6.8%	201	1.6%	775,200	20.7%	7,853,000	16.9%	
LMI	10	16.9%	2,189	17.1%	416,946	31.4%	11,925,602	25.6%	
Middle	18	30.5%	3,735	29.3%	1,000,000	21.0%	11,925,602	17.2%	
Upper	31	52.5%	6,843	53.6%	1,320,000	45.0%	11,925,602	52.2%	
Unknown	0	0.0%	0	0.0%	31,000	2.6%	2,282,500	4.9%	
Total	59		12,767		1,327,678		46,516,384		

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

5. Action Taken in Response to Written Complaints with Respect to CRA: N/A

Neither DFS nor TBB received any written complaints during the evaluation period regarding TBB’s CRA performance.

B. Community Development Test: Satisfactory

TBB’s community development performance demonstrated satisfactory responsiveness to the community development needs of its assessment area through community development loans, qualified investments and community development services, considering TBB’s capacity, and the need for and availability of opportunities for community development in its assessment area.

1. Community Development Lending: Outstanding

During the evaluation period, TBB originated \$81 million in new community development loans, and had \$17.3 million outstanding from prior evaluation periods. This demonstrated an outstanding level of community development lending over the course of the evaluation period.¹

Of the total community development loans, 51% were for economic development in support of small businesses, 26% for the revitalization and stabilization efforts in LMI geographies, and 23% for community services geared toward LMI individuals.

Community Development Loans				
Purpose	This Evaluation Period		Outstandings from Prior Evaluation	
	# of Loans	\$000	# of Loans	\$000
Affordable Housing				
Economic Development	12	35,500	1	14,750
Community Services	5	20,141	3	2,564
Revitalize and Stabilize	6	25,372		
Total	23	81,013	4	17,314

Below are highlights of TBB’s community development lending.

- TBB supported community services by financing \$20.1 million to convert various hotels into homeless shelters within the assessment area. In addition to providing transitional housing, on- and off-site supportive services are provided to ensure residents are able to transition from homelessness and joblessness to permanent housing and economic independence.
- The Bank originated a \$13.5 million loan to finance the construction of a new seven-story, 126-room hotel located in Queens County. The property was accepted into the

¹ For analysis purposes, renewals of lines of credit that occur during the evaluation period are considered new extensions of credit. However, the level of lending is reviewed across the time period of the exam.

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

Environmental Protection Agency’s Brownfield Land and Revitalization Program. Clean-up of the property improves and protects the environment and construction of a new hotel creates new jobs for LMI individuals.

- The Bank extended \$9.9 million in commercial mortgages in support of revitalization and stabilization efforts in a moderate-income census tract in New York County. The subject properties offer office rental space helping to retain small businesses in the area.

2. Qualified Investments: Satisfactory

During the evaluation period, TBB made \$8.2 million in new qualified investments and had \$3.1 million outstanding from prior evaluation periods. In addition the Bank made one donation for \$100. This demonstrated a reasonable level of qualified investments over the course of the evaluation period.

The Bank’s total qualified investments of \$11.3 million made during the current evaluation period (5.25 years) represented a decline of 21% from the \$14.2 million of qualified investments made during the prior evaluation period (3 years). Still, this decline, which can be attributed to the effects of the COVID-19 pandemic, was less than the decline of the 53% in the Bank’s total investments.

The following table illustrates TBB’s qualified investments during the evaluation period.

Qualified Investments and Grants				
	This Evaluation Period		Outstandings from Prior Evaluation Periods	
	# of Inv.	\$000	# of Inv.	\$000
CD Investments				
Affordable Housing	2	6,920	12	3,113
Economic Development	3	1,250		
Community Services				
Revitalize and Stabilize				
Total	5	8,170	12	3,113
CD Grants	# of Grants	\$000	<i>Not Applicable</i>	
Affordable Housing				
Economic Development				
Community Services	1			
Revitalize and Stabilize				
Total	1	0		

Below are highlights of TBB’s qualified investments.

TBB’s qualified investments consisted of the purchase of \$6.9 million in Federal Home Loan Mortgage Corporation (“Freddie Mac”) mortgage-backed securities that benefit the Bank’s assessment area. The securities were collateralized by residential mortgage loans made to LMI borrowers. Additionally, \$1.3 million of the qualified investments represented certificate of deposits in Minority Depository Institutions (“MDIs”)².

² Refer to the Glossary for a definition of MDIs.

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

3. Community Development Services: Needs to Improve

TBB demonstrated a less than satisfactory level of community development services over the course of the evaluation period.

Community Development Services	
Activity Type	Number of Activities
On-Going Board & Committee Memberships	5
Seminars	10
Total Community Development Services	15

During the evaluation period, TBB employees provided ten instances of qualified community services by providing financial education and training workshops in which they discussed topics such as, identity theft, protecting the elderly from financial abuse and Money Smart, a financial education program.

4. Responsiveness to Community Development Needs:

TBB demonstrated a satisfactory level of responsiveness through community development lending and investments.

B. Additional Factors

1. The extent of participation by the banking institution’s Board of Directors or Board of Trustees in formulating the banking institution’s policies and reviewing its performance with respect to the purposes of the CRA.

TBB’s board of directors monitors the Bank’s CRA performance through quarterly updates. The updates include information on lending and community development activities that may qualify for CRA credit. The Bank maintains a CRA policy which was last updated January 2021.

2. Discrimination and other illegal practices

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

DFS examiners did not note practices by TBB intended to discourage applications for the types of credit offered by TBB.

- *Evidence of prohibited discriminatory or other illegal credit practices.*

DFS examiners did not note evidence by TBB of prohibited discriminatory or other illegal practices.

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

3. Record of opening and closing offices and providing services at offices

TBB closed two branches and did not open any new branches during the evaluation period. In 2020, the Bank closed its only branch office in Sullivan County in an upper-income census tract and in 2021, the Bank closed a branch office located in a moderate-income census tract in Kings County.

The Bank operates eight full services branch offices and one limited-service branch office in New York State. It operates three branches in each of the following counties: New York, Kings and Orange County. All full-service branches have ATMs and offer branch hours from 9:00 A.M. to 4:00 P.M. Monday to Friday. The limited-service branch serves the residents of the Glen Arden Life Care Retirement Community located in Orange County and offers hours from 9:30 am to 11:30 am on Tuesday and Thursday.

The table below shows the distribution of TBB’s branch offices by the income level of the census tracts in which the branches are located.

Distribution of Branches within the Assessment Area							
County	N/A	Low	Moderate	Middle	Upper	Total	LMI
	#	#	#	#	#	#	%
New York	0	0	0	0	3	3	0%
Kings	0	1	2	0	0	3	100%
Orange	0	0	0	3	0	3	0%
Total	0	1	2	3	3	9	33%

4. 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 ascertains the credit needs of its community by hosting seminars to inform the public of their services and to find out how to meet the credit needs of its community. Opportunities for CRA community service activities are done at the branch level, while opportunities for community development loans are handled by loan officers.

- 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

TBB markets its products and services by advertising in local newspapers, on its website, in-house mailing and posting flyers and posters at branch offices.

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

5. Other factors that in the judgment of the Superintendent bear upon the extent to which TBB is helping to meet the credit needs of its entire community

In addition to originating community development loans within its assessment area, the Bank also originated \$39.5 million in community development loans outside its assessment area, but within New York State.

The Bank, in response to the COVID-19 pandemic, modified or extended the payment terms on 36 loans, consisting of 15 residential mortgages totaling \$3.8 million and 21 commercial loans totaling \$80.3 million, to borrowers who advised the Bank that they were experiencing financial hardship.

V - GLOSSARY

Aggregate Lending

“Aggregate lending” means the number of loans originated and purchased by all reporting lenders in specified categories as a percentage of the aggregate number of loans originated and purchased by all reporting lenders in the assessment area.

Banking Development District (“BDD”) Program

The BDD Program is a program designed to encourage the establishment of bank branches in areas across New York State where there is a demonstrated need for banking services, in recognition of the fact that banks can play an important role in promoting individual wealth, community development, and revitalization. Among others, the BDD Program seeks to reduce the number of unbanked and underbanked New Yorkers and enhance access to credit for consumers and small businesses. More information about the program, may be found at <https://www.dfs.ny.gov> and search for the BDD Program.

Community Development

“Community development” means:

- Affordable housing (including multifamily housing) for LMI individuals;
- Community services targeted to LMI individuals;
- 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;
- Activities that revitalize or stabilize LMI geographies, designated disaster areas, or distressed or underserved metropolitan middle-income geographies designated by the Board of Governors of the federal Reserve System, FDIC and the Office of Comptroller of the Currency; and
- Activities that seek to prevent defaults and/or foreclosures in loans included in the first and third bullet points above.

Community Development Loan

“Community development loan” means a loan that has 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 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

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

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.

Community Development Service

“Community development service” means a service that has community development as its *primary purpose*, 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.

Community Development Financial Institution (“CDFI”)

A CDFI is a financial institution that provides credit and financial services to underserved markets and populations and has a primary mission of community development, serves a target market, is a financing entity, provides development services, remains accountable to its community, and is a non-governmental entity. CDFIs are certified as such by United States Treasury Department’s CDFI Fund.

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

Fair Market Rents (“FMRs”)

Fair Market Rents are published and developed annually by the US Department of Housing and Urban Development (“HUD”) and used to determine rent payments for affordable housing projects such as Section 8 contracts in defined metropolitan statistical areas (“MSAs”) nationwide. For easy reference of annual FMRs in New York MSAs or counties, go to www.huduser.gov/portal/datasets/fmr.html

Geography

“Geography” means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.

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.

Income Level

The income level for borrowers is based on household or family income. A geography’s income is categorized by median family income for the geography. In both cases, the income is compared to the Metropolitan Statistical Area (“MSA”) or statewide nonmetropolitan median income.

Income level of individual or geography	% of the area median income
Low-income	Less than 50
Moderate-income	At least 50 and less than 80
Middle-income	At least 80 and less than 120
Upper-income	120 or more

LMI Geographies

“LMI geographies” means those census tracts or block numbering areas where, according to the most current U.S. 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 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 Block Numbering Areas (“BNAs”) and tracted areas that are not part of a MSA or PMSA, the area median family income would be the statewide non-metropolitan median family income.

LMI Borrowers

“LMI borrowers” means 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

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

income. In cases 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 non-metropolitan median family income. In all instances, the area median family incomes used to measure borrower income levels are updated annually by the Federal Financial Institutions Examination Council (“FFIEC”).

LMI Individuals/Persons

“LMI individuals” or “LMI persons” means individuals or persons 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 non-metropolitan median family income. In all instances, the area median family incomes used to measure individual income levels are updated annually by the FFIEC.

LMI Penetration Rate

“LMI penetration rate” means the percentage of a bank’s total loans (for a particular product) that was extended to LMI geographies or borrowers. For example, if a bank made 20 out of a total of 100 loans in LMI geographies or to LMI borrowers, the penetration rate would be 20%.

Low-Income Housing Tax Credit (“LIHTC”)

LIHTC were created under the Tax Reform Act of 1986, that provides incentives to invest in projects for the utilization of private equity in the development of affordable housing aimed at low-income Americans. The tax credits provide a dollar-for-dollar reduction in a taxpayer’s federal income tax. It is more commonly attractive to corporations since the passive loss rules and similar tax changes greatly reduced the value of tax credits and deductions to individual taxpayers.

Minority Depository Institutions (“MDIs”)

An MDI is defined as a federal insured depository institution for which (1) 51 percent or more of the voting stock is owned by minority individuals; or (2) a majority of the board of directors is minority and the community that the institution serves is predominantly minority. For more of MDIs, go to FDIC.gov (Minority Depository Institutions Program) including list of MDIs.

New Markets Tax Credit (“NMTC”)

The NMTC Program was established by Congress in December 2000 to stimulate economic and community development and job creation in low-income communities. It permits taxpayers to receive a credit against federal income taxes for making qualified equity investments in Community Development Entities (“CDEs”). The credit provided to the investor totals 39% of the cost of the investment and is claimed over a 7-year period. CDEs must use substantially all of the taxpayer’s investments to make qualified investments in low-income communities. The Fund is administered by the CDFI Fund, an agency of the United States Department of the Treasury.

THE BERKSHIRE BANK – CRA PERFORMANCE EVALUATION

Paycheck Protection Program (“PPP”) Loans

The Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”) temporarily permits the U.S. Small Business Administration (“SBA”) to guarantee 100% of 7(a) loans under a new program titled the “Paycheck Protection Program”. The intent of the PPP is to help small business cover payroll costs providing for forgiveness of up to the full principal of qualifying loans guaranteed under the PPP subject to certain rules including how much or percentage of the loan proceeds a borrower spends on payroll costs. A small business owner can apply through any existing SBA 7(a) lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. Any amount of the PPP loan that is not forgiven shall be repaid over a 5-year term at a fixed interest rate of 1%. The program officially ended May 31, 2021.

Qualified Investment

“Qualified investment” means a lawful investment, deposit, membership share or grant that has community development as its *primary purpose*. 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.

Small Business Loan

A small business loan is a loan less than or equal to \$1 million.