



PUBLIC SUMMARY

COMMUNITY REINVESTMENT ACT PERFORMANCE EVALUATION OF THE BANK OF NEW YORK MELLON

AS OF JUNE 30, 2023

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.

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I - GENERAL INFORMATION

This document is an evaluation (the “Evaluation”) of the Community Reinvestment Act (“CRA”) performance of The Bank of New York Mellon (“BNY” 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 Bank’s CRA performance based on an evaluation conducted as of June 30, 2023.

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 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 end of this Evaluation.

II- OVERVIEW OF INSTITUTION’S PERFORMANCE

The Department evaluated BNY’s performance according to the community development test for wholesale or limited purpose banking institutions pursuant to Section 76.11 of the GRS. The evaluation period covered April 1, 2021 to June 30, 2023. The Department assigned BNY a rating of “2” indicating a “Satisfactory” record of helping to meet community credit needs.

This rating is based on the following criteria:

A. Community Development Test:

BNY’s community development performance demonstrated an adequate level of community development loans, qualified investments and services considering the Bank’s capacity and the need and availability of such opportunities for community development in its assessment area.

Community Development Lending:

During the evaluation period, BNY originated \$415.9 million in new community development loans, and had no loans outstanding from prior evaluation periods.

Qualified Investments:

During the evaluation period, BNY made \$574.6 million in new qualified investments and still had \$1.3 billion in qualified investments outstanding from prior evaluation periods. In addition, the Bank made \$13.7 million in qualified grants.

Community Development Services:

During the evaluation period, BNY provided or participated in 108 community development services.

B. Innovative or Complex Practices:

BNY demonstrated extensive use of innovative or complex community development practices.

C. Responsiveness to Credit and Community Development Needs:

BNY demonstrated an adequate level of responsiveness to credit and community development needs.

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 Part 76 of the General Regulations of the Superintendent.

III – PERFORMANCE CONTEXT

A. Institution Profile

Chartered in 1784, BNY is headquartered in New York City. The Bank is a subsidiary of The Bank of New York Mellon Corporation (“the Company”), a publicly traded Bank holding company.

BNY’s affiliates include BNY Mellon, National Association (“BNY Mellon, N.A.”) and BNY Aurora Holding Corporation (“BANYAH”). BNY Mellon N.A. is a nationally chartered bank operating in Pittsburgh, Pennsylvania that provides investment management, wealth management, estate planning, and private banking solutions to high-net worth individuals and their families, while BANYAH makes investments in low-income rental housing developments and rehabilitation projects through low-income housing tax credits (“LIHTC”) on the Bank’s behalf. Accordingly, BANYAH’s activities are included in this Evaluation.

Additionally, the Bank operates two charitable foundations: the BNY Foundation which promotes charitable purposes within the Bank’s CRA assessment area; accordingly, its grant activities within the New York assessment area are considered in this Evaluation; and the BNY Mellon Foundation of Southwestern Pennsylvania which promotes charitable activities in Southwestern Pennsylvania.

The Bank does not operate retail branches or offer consumer deposit or lending services, and is designated as a wholesale bank for CRA purposes. BNY provides investment services, including asset management, asset servicing, clearing servicing, issuer services such as corporate trust, treasury services to institutional clients, as well as broker dealer and advisory services.

In its Consolidated Report of Condition (the “Call Report”) as of June 30, 2023, filed with the Federal Deposit Insurance Corporation (“FDIC”), BNY reported total assets of \$348.6 billion, of which \$30.2 billion were net loans and lease financing receivables. It also reported total deposits of \$193.7 billion in domestic offices¹, resulting in an LTD ratio of 15.6%. According to the latest available comparative deposit data as of June 30, 2023, BNY obtained a market share of 9.1%, or \$193.7 billion in a market of \$2.1 trillion, ranking it 3rd among 119 deposit-taking institutions in the assessment area.

The following is a summary of the Bank’s loan portfolio, based on Schedule RC-C of the Bank’s December 31, Year 2021, 2022, and June 30, 2023 Call Reports:

¹ The Bank also holds \$101.6 billion in deposits in foreign offices, Edge and Agreement subsidiaries, and International Banking Facilities (“IBFs”). DFS does not consider these deposits for CRA purposes.

THE BANK OF NEW YORK MELLON – CRA PERFORMANCE EVALUATION

TOTAL GROSS LOANS OUTSTANDING						
Loan Type	12/31/2021		12/31/2022		6/30/2023	
	\$000's	%	\$000's	%	\$000's	%
Construction Loans	823,000	2.7	829,000	2.6	1,026,000	3.4
1-4 Family Residential Mortgage Loans	461,000	1.5	477,000	1.5	1,118,000	3.7
Multifamily Mortgages	1,275,000	4.1	1,401,000	4.4	1,402,000	4.6
Commercial Mortgage Loans	1,973,000	6.4	2,366,000	7.5	2,270,000	7.5
Loans to Depository Institutions	6,768,000	21.8	6,760,000	21.4	7,760,000	25.5
Commercial and Industrial Loans	1,972,000	6.4	1,314,000	4.2	1,186,000	3.9
Consumer Loans	0	0.0	0	0.0	0	0.0
Loans to Foreign Governments and Official Institutions	2,000	0.0	36,000	0.1	88,000	0.3
Obligations of States & Municipalities	290,000	0.9	125,000	0.4	54,000	0.2
Loans to Non-Depository Institutions	16,757,000	54.0	17,598,000	55.8	14,919,000	49.0
Lease financing	731,000	2.4	657,000	2.1	640,000	2.1
Total Loans	31,052,000		31,563,000		30,463,000	

As illustrated in the above table, BNY is primarily a wholesale lender, with 49% of its loan portfolio in loans to non-depository institutions and 25.5% in loans to depository institutions.

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

B. Assessment Area

The Bank's assessment area consists of Bronx, Kings (Brooklyn), Nassau, New York (Manhattan), Queens, Richmond (Staten Island), and Westchester counties².

There are 2,854 census tracts in the Bank's assessment area, of which 305 are low-income, 628 are moderate-income, 922 are middle-income, 835 are upper-income, and 164 are tracts with no income indicated.

² Kings, New York, and Richmond Counties are commonly referred to as, respectively, Brooklyn, Manhattan, and Staten Island.

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Assessment Area Census Tracts by Income Level							
County	N/A	Low	Mod	Middle	Upper	Total	LMI %
Bronx	21	129	121	65	25	361	69.3
Kings	46	91	235	263	170	805	40.5
Nassau	9	10	31	146	90	286	14.3
New York	23	36	44	32	175	310	25.8
Queens	52	26	157	325	165	725	25.2
Richmond	7	3	13	42	61	126	12.7
Westchester	6	10	27	49	149	241	15.4
Total	164	305	628	922	835	2,854	32.7

C. Demographic & Economic Data

The assessment area had a population of 11,204,421 during the evaluation period. Approximately 14.8% of the population were over the age of 65 and 22.3% were under the age of 16.

Of the 2,491,912 families in the assessment area 26.9% were low-income, 15.6% were moderate-income, 16.7% were middle-income and 40.9% were upper-income. There were 3,995,143 households in the assessment area, of which 15.2% had income below the poverty level and 4% were on public assistance.

The weighted average median family income in the assessment area was \$101,057.

There were 4,369,148 housing units within the assessment area, of which 46.2% were one- to four-family units and 53.7% were multifamily units. A majority (54.1%) of the housing units were rental-occupied units, while 37.3% were owner-occupied units.

Of the total 2,364,890 rental-occupied units, 47.7% were in LMI census tracts while 50.9% were in middle- and upper-income census tracts. Average monthly gross rent was \$1,599.

Of the 1,630,253 owner-occupied housing units, 16.2% were in LMI census tracts while 83.3% were in middle- and upper-income census tracts. The median age of the housing stock was 74 years, and the median home value in the assessment area was \$654,926.

There were 1,886,703 non-farm businesses in the assessment area. Of these, 93.6% were businesses with reported revenues of less than or equal to \$1 million, 2.5% reported revenues of more than \$1 million and 3.9% did not report their revenues. Of all the businesses in the assessment area, 98.1% were businesses with less than fifty employees while 96.2% operated from a single location. The largest industries in the area were services (32.1%), finance, insurance, and real estate (10.6%), and retail trade (10.4%); 33.4% of businesses in the assessment area were not classified.

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According to the New York State Department of Labor, the average unemployment rates for New York State and all counties in the Bank’s assessment area declined from 2021 to 2022. The downward trend continued through the first half of 2023 for New York State, Bronx, Nassau and Westchester counties, while Kings and New York counties’ unemployment rates slightly increased. Overall, Bronx (9.7%) and Kings (7.5%) counties had the highest average unemployment rates during the evaluation period.

Assessment Area Unemployment Rate								
	New York State	Bronx	Kings	Nassau	New York	Queens	Richmond	Westchester
2021	7.0%	13.8%	10.3%	4.5%	7.7%	9.8%	8.9%	4.8%
2022	4.3%	7.8%	5.9%	2.9%	4.6%	5.2%	5.5%	3.1%
6/30/2023	4.2%	7.6%	6.2%	2.8%	5.2%	5.2%	5.5%	3.0%
Average of Above	5.2%	9.7%	7.5%	3.4%	5.8%	6.7%	6.6%	3.6%

D. Community Information

As part of the evaluation, examiners conducted interviews with two community representatives (“contacts” or “interviewees”) to identify credit needs and opportunities within the Bank’s assessment area.

The first interview was conducted with an executive of a nonprofit organization in New York City, that provides community members with access to financial literacy, affordable financial services and wealth building tools in underserved communities, with a focus on the Bronx. The organization’s services include free financial counseling and tax preparation services to LMI families, immigrants, essential workers, and seniors as well as assistance in finding affordable housing. The interviewee stated there is a critical need for local branch banking offices in the Bronx, and further stated that larger banks offered occasional grants to help the community but did not really seem interested in providing actual services such as branches, leaving community residents to resort to check cashing services. However, the contact also stated that locally based banks and credit unions were often more helpful. The interviewee also suggested that banks should increase advertisement of free checking accounts to the residents of these communities. Finally, this contact stated that gentrification was making it difficult for some long-time residents to remain in the community.

DFS examiners interviewed a second community contact representing a national, nonprofit, affordable housing organization with a regional office in New York City. This organization has several subsidiaries, including a Community Development Financial Institution (“CDFI”) that provides investment capital and development services for affordable housing in the assessment area.

This contact stated that affordable housing represents a primary need in the assessment area, including pre-development capital and subsequent permanent financing for construction of affordable housing, as well as bridge loans and other financing products. Additionally, the contact

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stated that LMI neighborhoods need not only more financing of and equity investments in affordable housing projects but also more accessible and lower priced housing. Finally, the contact stated that banks were helpful overall, but that insurance products for affordable housing were often unavailable.

IV – PERFORMANCE TEST AND ASSESSMENT FACTORS

The Department evaluated BNY under the wholesale banking institution performance standards pursuant to the “community development test,” as provided in Section 76.11 of the GRS.

Performance criteria include:

- (1) the number and amount of community development loans, qualified investments or community development services;
- (2) the use of innovative or complex qualified investments, community development loans or community development services and the extent to which investments are not routinely provided by private investors; and
- (3) the banking institution’s responsiveness to credit and community development needs.

In addition, the following factors are also considered in assessing BNY’s record of performance: the extent of participation by the board of directors or board of trustees in formulating CRA policies and reviewing CRA performance; any practices intended to discourage credit applications; evidence of prohibited discriminatory or other illegal credit practices; the Bank’s record of opening and closing offices and providing services at offices; and process factors such as activities to ascertain credit needs; and the extent of marketing and special credit related programs. Finally, the Evaluation considered other factors as delineated in Section 28-b of the New York Banking Law that reasonably bear upon the extent to which a banking institution is helping to meet the credit needs of its entire community.

DFS derived statistics employed in this Evaluation from various sources. BNY submitted bank-specific information both as part of the Evaluation process and in its Call Report submitted to the FDIC.

DFS derived the demographic data referred to in this report from the 2020 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 the period from April 1, 2021 to June 30, 2023.

In its prior Community Reinvestment Act Performance Evaluation as of March 31, 2021, DFS assigned BNY a rating of “2” reflecting a “Satisfactory” compliance with regulatory standards.

Current CRA Rating: Satisfactory

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A. Community Development Test:

BNY community development performance demonstrated an adequate level of community development loans, qualified investments and services considering BNY’s capacity and the need and availability of such opportunities for community development in its assessment area. The majority of the qualified CD loans and investments made by BNY during the current and prior periods continued to focus on the creation or preservation of affordable housing for LMI individuals and families within its assessment area.

A more detailed description of the Bank’s community development activity follows:

1. Community Development Lending:

During the current evaluation period, BNY originated 16 new community development loans totaling \$415.9 million and had no loans outstanding from prior evaluation periods³. All community development loan originations supported financing for the development of affordable housing projects within the Bank’s assessment area, through construction loans, letters of credit, enhanced tax-exempt bonds issued by the New York City Housing Development Corporation (“NYCHDC”), and the New York State Housing Finance Agency (“NYSHFA”). These transactions included LIHTC supported projects.

Community Development Loans				
Purpose	This Evaluation Period		Outstandings from Prior Evaluation Periods	
	# of Loans	\$000	# of Loans	\$000
Affordable Housing	16	415,894		
Economic Development				
Community Services				
Other (Please Specify)				
Total	16	415,894	0	\$0

Below are highlights of BNY’s community development lending:

- BNY extended a \$66.1 million, 40-month standby letter of credit to support tax-exempt bonds issued by NYCHDC. This credit facility is supplemented with \$61.9 million in LIHTC equity funded by New York City Department of Housing Preservation and Development (“NYCHPD”) to fund the construction of a 15 story, 232-unit building consisting of permanent affordable housing in a low-income tract in Manhattan. The project will reserve 85% of its units for households earning between 30%-80% of the area median income (“AMI”). The project’s remaining units will be subsidized by NYCHPD and set aside for formerly homeless individuals.

³ 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.

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- The Bank extended a \$54.5 million 37-month standby letter of credit that will support tax exempt bonds issued by NYCHPD. The bond proceeds will finance the demolition of an existing family transitional shelter and construction of a new 184-unit affordable building in Brooklyn. The project will provide affordable housing, with 111 units (60%) set aside for homeless families who will be subsidized through the New York City-funded 15/15 rental assistance program. The remaining 72 units (40%) will be rented to low-income households with incomes up to 60% of AMI. The property will also house a nonprofit organization that operates a domestic violence prevention program.
- BNY extended a \$47.9 million standby letter of credit to support tax-exempt bonds issued by NYCHDC. The bond proceeds will also be supplemented with \$8 million in funding through New York State Brownfield tax credits and \$35 million in LIHTC equity offered by NYCHPD to finance the construction of a 108-unit affordable housing project in Brooklyn. The project allocates almost all or 107 of its units (99%) for households whose incomes are between 30% to 80% of AMI. Additionally, 17 of the units will be set aside as permanent supportive housing for formerly homeless persons.
- BNY issued a \$47.4 million, 36-month standby letter of credit that will support tax exempt bonds issued by NYCHDC. The bond proceeds along with \$45.4 million in LIHTC equity funding by NYCHPD finances construction of a 19-story affordable rental housing building in Manhattan containing 168 units restricted to individuals or households earning up to 67% of AMI, plus one unit reserved for the superintendent. Of the total units, 51 are set aside for homeless individuals subsidized through the NYC funded 15/15 rental assistance program. The project will also contain two community facilities, one leased to a medical provider and the other to a nonprofit center that aims to provide safe and secure environment to its community.

2. Qualified Investments:

During the evaluation period, BNY made \$574.6 million in new qualified investments and had \$1.3 billion outstanding from prior evaluation periods. In addition, the Bank made \$13.7 million in qualified grants.

BNY's qualified investments focused on affordable housing for LMI individuals and households. These investments were comprised of LIHTC investments (52%), municipal bonds issued by NYSHFA and NYCHDC (43%), and qualified community development mortgage-backed securities issued by Fannie Mae and Freddie Mac (6%).

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Qualified Investments and Grants				
	This Evaluation Period		Outstandings from Prior Evaluation Periods	
	# of Inv.	\$000	# of Inv.	\$000
CD Investments				
Affordable Housing	37	574,597	391	1,202,252
Economic Development			12	84,264
Community Services				
Revitalization/Stabilization				
Total	37	574,597	403	1,286,516
CD Grants	# of Grants	\$000	Not Applicable	
Affordable Housing	61	497		
Economic Development	229	4,667		
Community Services	58	8,514		
Revitalization/Stabilization				
Total	348	13,678		

Below are highlights of BNY's qualified investments:

- BNY invested in eight LIHTC equity partnership funds totaling \$296.1 million that provided financing for the new construction and/or rehabilitation of multi-family apartment buildings targeting homeless or LMI families. Highlights are as follows:
 - A \$62.8 million equity investment in a LIHTC project located in Manhattan that finances construction of an affordable housing development with all 232 rental units affordable for households earning less than 80% AMI.
 - A \$46.8 million equity investment in a LIHTC multi-family construction project located in Brooklyn. The project contains 184 units, 111 of which are reserved for homeless families who will be subsidized by the NY 15/15 program, and one is reserved for the superintendent. The remaining units are rented to households earning up to 60% of AMI. The development will also contain two community facilities to be operated by a non-profit organization operating a domestic violence prevention program and ground floor retail space operated by a local development corporation that assists low-income individuals become financially literate.
 - A \$45.9 million equity investment that supports the construction of a 169-unit affordable housing structure in Manhattan. The project reserves 168 units for families earning less than 60% of AMI, including 51 units that will be set aside for homeless individuals subsidized through the New York 15/15 rental assistance program.
 - A \$43.9 million equity investment that will provide additional financing for the construction of a apartment building in a moderate-income census tract in Brooklyn containing 108 units reserved for households earning between 40% to 80% of AMI.

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- BNY invested \$246.6 million in municipal bonds issued by NYSHFA and NYCHDC that supported the construction of affordable housing projects in the Bank’s assessment area targeting LMI individuals and households earning up to 80% of AMI.
- BNY invested \$32 million in mortgage-backed securities issued by Fannie Mae and Freddie Mac. The investments are secured by affordable residential housing for LMI borrowers whose incomes are below 80% of the MSA AMI. The investments provide market liquidity in the affordable housing market within the Bank’s assessment area.

During the evaluation period, BNY made 348 qualified donations totaling \$13.7 million to various community-based organizations that provide affordable housing services, community services, and economic development via financial literacy and foreclosure prevention programs designed to assist low-and moderate-income individuals. Examples of the Bank’s qualified grants in the assessment area include:

- The Bank donated \$7.2 million to a local university research foundation to support its research program and paid internships, offered primarily to LMI students in New York City.
- The Bank gave \$700,000 to a foundation of a local college foundation for its various programs covering advancement of STEM (Science, Technology, Engineering and Math) program and justice education. The college’s student population are mostly from LMI areas of New York City.
- The Bank donated a total of \$455,000 to various nonprofit organizations offering relief programs, technical assistance, and vaccinations to LMI individuals and families, minorities, women, and small businesses impacted by the COVID-19 pandemic.
- The Bank donated \$450,000 to a nonprofit organization whose mission is to provide a comprehensive program of financial aid, mentoring, leadership development, educational assistance and career guidance to underserved minority youth.
- The Bank gave \$418,500 to a not-for-profit organization that seeks to ameliorate health inequities that include high rates of obesity, diabetes, heart disease, and HIV occurring in vulnerable communities in BNY’s assessment area.

3. Community Development Services:

During the evaluation period, BNY provided or participated in 108 community development services. BNY’s directors, executive management, officers, and employees served in various capacities as board or committee members of various community development organizations that offer programs or provide services to LMI individuals and families, communities and small businesses in the Bank’s assessment area. In addition, several Bank employees provided technical assistance to community development organizations that serve immigrants, LMI individuals and families, the underserved, and the underprivileged.

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Additionally, BNY continued to operate the Community Partnership and the Supplier Diversity Programs. The former program encourages Bank employees to volunteer for community organizations and to make individual donations, which are matched by the Bank, while the latter aims to assist small businesses through mentoring technical assistance provided by BNY employees with a primary focus on minority- and women-owned businesses.

Community Development Services	
Activity Type	Number of Activities
On-Going Board & Committee Memberships	79
Technical Assistance	29
Seminars	0
Credit Counseling	0
Other Services	0
Total Community Development Services	108

Below are highlights of BNY's community development services.

Economic Development

- The President and Chief Executive Officer of the Bank serves on the board of an organization that focuses on job creation, development of affordable housing, neighborhood revitalization, and a variety of other economic development projects. Through its collaboration with other organizations, the partnership works to improve and expand economic opportunities for all New Yorkers, including LMI residents in the Bank's assessment area.
- The Bank's CRA officer (who is also a Vice President) serves on the board and various committees of an organization that supports residents and small businesses in Bronx County. The organization seeks to improve the economic welfare of its residents through programs that include youth and adult education, career development, housing rehabilitation, affordable housing, business counseling, and financing assistance for entrepreneurs and business owners to help operate or expand their businesses.

Community Services

- A senior executive vice president of the Bank serves on the board of a law firm that provides free legal assistance to low-income residents and the underprivileged. The firm advocates for individuals and families facing domestic violence, foreclosure, residential eviction, homelessness, employment discrimination, and human rights violations.
- An executive officer of the Bank serves as board member of an organization that provides tuition assistance to help families in need. The organization primarily serves students from low-income families, helping them break the cycle of poverty and achieve academic success.

Affordable Housing

- The Bank’s CRA officer (who is also a Vice President) serves on the board of an organization that focuses on homeownership for the LMI population. Through its collaboration with financial institutions, the organization provides access to closing cost and downpayment assistance, one-on-one counseling, workshops, and foreclosure prevention programs to help expand and retain homeownership for LMI individuals and families, including minorities.
- A managing director of BNY serves on the advisory board of an organization created to support the development and preservation of affordable housing and to raise public awareness for the need of affordable housing. The organization focuses on advocating for housing policies and partnering with housing professionals to improve housing policy and affordable housing programs in low-income communities.

B. Innovative or Complex Practices:

BNY demonstrated extensive use of innovative or flexible community development practices. During the current evaluation period, the Bank made approximately 52% by dollar volume of its qualified investments in LIHTC projects which helped address the need for affordable housing. The LIHTC program offers equity through subsidized investment vehicles that fund construction and rehabilitation of affordable housing. These investments generally have innovative and/or complex characteristics as they require significant technical and financial reporting and ongoing monitoring for compliance requirements with federal and state tax laws and regulations.

C. Responsiveness to Credit and Community Development Needs:

BNY demonstrated an adequate level of responsiveness to credit and community needs. As noted previously, both community contacts identified affordable housing as a crucial need of LMI individuals in the Bank’s assessment area. The majority of the Bank’s community development activities supported affordable housing initiatives for LMI individuals and households, including LIHTC supported projects, mortgage-backed securities that support affordable housing for LMI individuals and families.

D. Additional Factors

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

BNY’s Board oversees the Bank’s CRA program and policy through its Corporate Governance, Nominating and Social Responsibility Committee (“CGNSRC”) and the CRA and Fair Lending Management Committee (“Management Committee”). The Management Committee is chaired by the CRA officer and comprised of representatives from various business units of BNY. The Management Committee oversees CRA compliance, reviews performance through periodic

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management briefings, internal self-assessments, and regulatory agencies' CRA reports. The CRA policy is reviewed periodically by the Management committee.

The Bank's CRA officer oversees the development and implementation of CRA policies and procedures as well as CRA compliance, reviews CRA activities, including outreach, marketing, lending, investment, services, and administrative activities. The CRA officer also conducts community outreach to identify opportunities meeting community needs, and assists in preparation of reports on the Bank's CRA lending, investment, and services for regulatory purposes including submission of reports to the board's CGNSRC.

1. 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 did not note any practices that were intended to discourage applications for the types of credit offered by the institution.

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

DFS did not note any evidence of prohibited discriminatory or other illegal practices.

2. The banking institution's record of opening and closing offices and providing services at offices

The Bank has not opened or closed any branches since the prior evaluation. As a wholesale bank, BNY does not offer retail services at its offices.

3. 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.*

BNY's Board and management assess community credit needs through internal assessments by community development staff, continuous outreach programs with community groups and organizations, discussions with CRA counterparts from other institutions, employee representation on governing boards and committees of CRA-related not-for-profit organizations in its assessment area, and participation in community development conferences.

- *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*

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As a wholesale bank, BNY focuses on increasing community development lending and investment opportunities. Marketing efforts include CRA-related conferences, community outreach events, engagement with community partners, and active participation in community activities through membership on boards or committees of community organizations. In addition, the Bank identifies opportunities for potential CRA-related transactions through partnerships with LIHTC syndicators for funding of low-income housing equity investments and relationships in capital markets for opportunities in the single and multifamily mortgage-backed securities markets.

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

In addition to the above community development activities within its assessment area, BNY invested \$20.9 million in three nationwide Small Business Investment Corporation bonds in support of economic development and promote small business growth.

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 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

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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.

Fair Market Rents (“FMRs”)

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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 income. In cases where the residential property is in 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 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.

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.