

Appendix C

Summary of Amendments to 209 CMR 46.00 *et seq.*, *Community Reinvestment*

There are both Federal and Massachusetts Community Reinvestment Acts (“CRA”). The state statute is Massachusetts General Laws chapter 167, section 14 and its implementing regulation at 209 CMR 46.00 *et seq.* Under the regulation, references to an institution also include a state-chartered credit union. As discussed herein, these amendments were filed as Emergency Regulations, which became effective September 1, 2005 in conjunction with federal changes.

On July 19, 2005 the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation (“FDIC”) approved final CRA rules. The final rules implement a new designation for CRA purposes known as intermediate small banks. Intermediate small banks are defined as banks with assets between \$250 million and less than \$1 billion. In addition to the creation of an intermediate small bank designation other changes are as follows:

- Intermediate small banks will no longer need to collect and report CRA loan data, however, examiners will continue to evaluate bank lending activity in the public CRA Performance Evaluations of these banks.
- Intermediate small banks will be evaluated under two separately rated tests: the small bank lending test; and a flexible new community development test that includes an evaluation of community development loans, investments, and services in light of community needs and the capacity of the bank. “Satisfactory” ratings are required on both tests to obtain an overall “Satisfactory” CRA rating.

In addition, for banks of any size:

- The new rules expand the definition of community development to include activities that revitalize or stabilize designated disaster areas and distressed or underserved rural areas. (Designated distressed or underserved rural areas are to be listed by the agencies on the Federal Financial Institutions Examination Council website.)
- The regulations also clarify when discrimination or other illegal credit practices by a bank or its affiliate will adversely affect an evaluation of the bank’s CRA performance.

The new rules went into effect on September 1, 2005. The Division’s existing CRA regulations mirror the federal regulations with two differences: (1) the Commonwealth’s CRA requirements are applicable to state-chartered credit unions and (2) the Massachusetts law has five CRA ratings instead of four, with the difference being a rating of “High Satisfactory” between “Satisfactory” and “Outstanding.” Because the Division does not want to subject state-chartered institutions to two different criteria regarding CRA compliance it is necessary to revise our CRA regulations, 209 CMR 46.00 *et seq.*, to remain consistent with our federal regulatory counterparts.

In addition, these regulations have also been amended to eliminate a technical transitional rule at 209 CMR 46.51 that became fully effective in January, 1998. Another technical definitional change is made as well. A definition of Core Based Statistical Area (“CBSA”) is added and references to a CBSA is made each time the regulations refer to a Metropolitan Statistical Area (“MSA”).

Following is a summary of the changes being made to the Division's CRA regulations by section. As noted above, these changes were adopted as Emergency Regulations, which became effective on September 1, 2005.

§46.12 – Change to the definition of Community Development, add state specific information regarding distressed areas; Change to the definition of Small Institution; Addition of definition of intermediate small institution; Adds a definition of Core Based Statistical Area (“CBSA”) and adds references to CBSA whenever a reference to Metropolitan Statistical Area (“MSA”) already occurs in the existing regulation.

§46.26(1) – Change performance criteria for small institutions, add language for intermediate small institutions

§46.26(2) – Adds language, small institution lending test

§46.26(3) – Adds language, community development test for intermediate small institutions.

§46.28(1) – Adds language, intermediate small institution standards

§46.28(3) – Adds language regarding violations of certain fair lending laws

§46.41(2) – Adds reference to CBSA

§46.41(3)(a) – Adds reference to CBSA

§46.41(5)(d) – Adds reference to CBSA

§46.42(2) – Adds reference to CBSA

§46.61(4)1 – Adds language, lending test rating and “small” institution

§46.61(4)2 – Adds language community development test ratings for intermediate small institutions

§46.61(4)3 – Adds service test ratings for credit unions that are intermediate small institutions

§46.61(4)4 – Renumbers previous provision at 209 CMR 46.61(4)3 as 209 CMR 46.61(4)4

Other technical changes are also being made.