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MASSACHUSETTS COMMUNITY & BANKING COUNCIL

CRA for Mortgage Lenders in Massachusetts, 2008-2015

May 2016

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CRA for Mortgage Lenders Task Force Mission Statement
MCBC's Mortgage Lending Committee will establish a Task Force to assess the impact of the CRA for Mortgage Lenders law. This Task Force will investigate the law's impact by interviewing relevant parties, collect and analyze relevant data, and undertake other activities that it deems relevant. The Task Force shall keep the whole Committee informed of its progress and shall provide a written report for review and discussion by the Mortgage Lending Committee. The CRA for Mortgage Lenders Task Force, if applicable, will make recommendations for improvements to the CRA for Mortgage Lenders Examination process which could include additional resources, training and guidance made available to mortgage lenders and/or other suggested improvements or changes to the current laws and/or regulations governing CRA for Mortgage Lenders Examinations.

Process
The CRA for Mortgage Lenders Task Force, comprised of representatives from Licensed Mortgage Lenders, Banks, Community Groups and Trade Associations held seven meetings over the course of 2014 and 2015. These meetings included presentations by representatives from two Licensed Mortgage Lenders, highlighting their experience with the CRA for Mortgage Lenders Public Disclosures and self-evaluation process, as well as lessons learned. The Task Force conducted a thorough review and examination of 5 Public Disclosures (Appendix A) in an effort to better understand the components of the Public Disclosures and rating system. The Task Force also held two meetings with representatives from the Division of Banks (DOB or Division), the state regulator overseeing state-chartered and licensed financial institutions and tasked with the CRA supervision of licensed mortgage lenders (LMLs). The first was an initial presentation by the DOB on the background and process of CRA for Mortgage Lenders; the second was a follow-up meeting to clarify regulation details and better understand the Public Disclosures reviewed. The DOB also provided resources for the task force such as guidance from the FFIEC, OCC, FDIC, Federal Reserve Bank of Boston, and Q&A excerpts. In addition, during the process, *Governor's Executive Order 562: To Reduce Unnecessary Regulatory Burden* was issued, which enabled an ongoing review and may result in proposed

amendments, of 209 CMR 54.00 in order to clarify and resolve compliance ambiguities and/or inconsistencies.

This work culminated in a comprehensive set of findings and recommendations by the Task Force, as detailed in this report.

I. Background

Massachusetts passed a law in 2007 requiring licensed mortgage lenders originating 50 or more HMDA reportable loans in Massachusetts to meet Community Reinvestment-like (MLCI or CRA) obligations. The Division promulgated a regulation effective September 2008 to implement the new law and examinations commenced in 2009. State law, which mirrors existing federal and state CRA requirements[1] over depository institutions, calls for lenders to meet the credit needs of low- and moderate-income borrowers and geographies when originating residential loans or acquiring mortgage portfolios in the Commonwealth. These requirements are further elaborated by regulation (see 209 CMR 54.00) whereby the DOB, as the state regulator overseeing state-chartered and licensed financial institutions, is tasked with the CRA supervision of licensed mortgage lenders (LMLs)[2].

II. Findings

Performance Evaluations and Ratings

There are approximately 75 lenders eligible for the CRA exam[3], based on HMDA loan data reported during the prior calendar year. The DOB, factoring loan volume and compliance stature of the lender, projects evaluating 15-20 lenders on an annual basis. However, the DOB has the discretion to change the number of projected examinations, based on unanticipated supervision and exam developments.

The Performance Evaluation conducted by the DOB includes both Lending and Service Tests and results in a performance rating of "Outstanding"; "High Satisfactory"; "Satisfactory"; "Needs to Improve"; or "Substantial Noncompliance". Between October 2009 and December 2015, the DOB published 76 Public Disclosures. Of these Public Disclosures, none were rated Outstanding, 3 were rated

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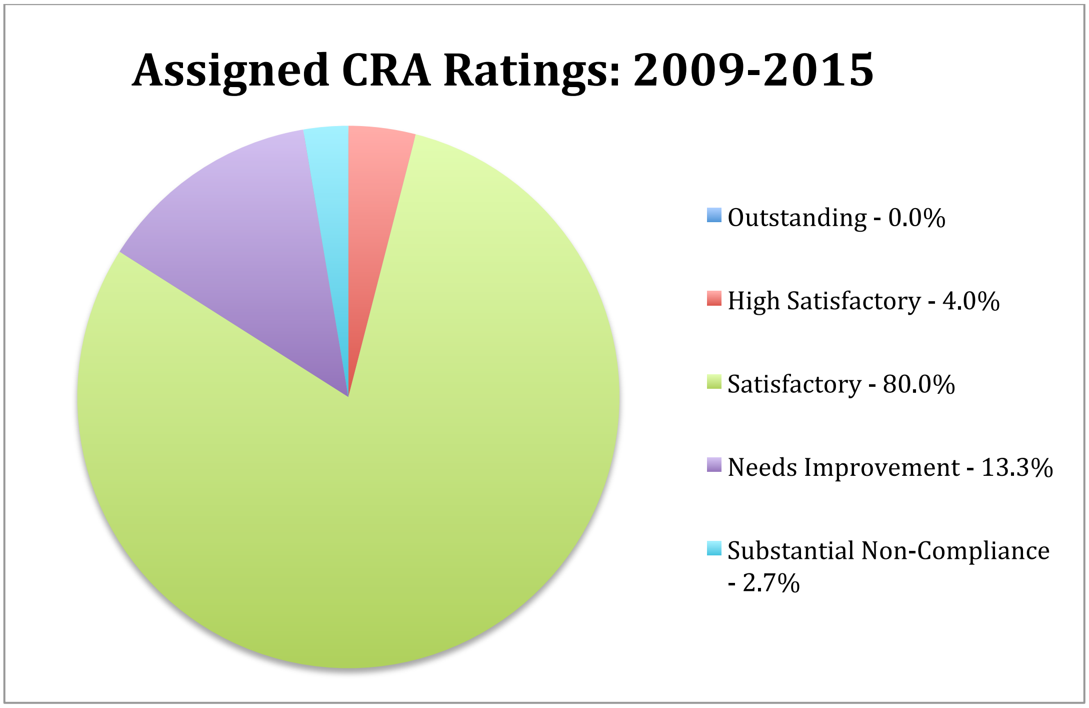
[1] Federal Community Reinvestment Act of 1977 12 U.S.C. 2901
https://www.fdic.gov/regulations/laws/rules/6500-2515.html - 6500hac801
Massachusetts Community Reinvestment Act statute (M.G.L. c. 167, § 14) and regulation (209 CMR 46.00)
https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXXII/Chapter167/Section14

[2] For all definitions, see 24 CMR 54.12 or http://www.mass.gov/ocabr/banking-and-finance/laws-and-regulations/dob-regulations/209-cmr-5400-mortgage-lender-community.html - twelve

[3] Licensing status for some eligible LMLs may change, impacting CRA exam eligibility.

High Satisfactory, 60 were rated Satisfactory, 11 were rated Needs to Improve, and 2 were assigned Substantial Noncompliance for an overall rating.



Very few performance evaluations have resulted in assigned ratings better than a Satisfactory. Obtaining a CRA rating better than Satisfactory demands an excellent record of meeting the credit needs of the Commonwealth, including low and moderate income individuals (consistent with 209 CMR 54.11(1), and a demonstrated lending pattern to individuals of different income levels, and in different geographies across the Commonwealth. Additionally, lenders must show measurable efforts in establishing channels that have increased accessibility of its delivery systems particularly for low- and moderate-income individuals. Leadership in community development services, such as involvement or participation in financial literacy programs, first-time home ownership programs or in other types of community development services in Massachusetts will be equally factored for an exemplary rating such as High Satisfactory or Outstanding.[4]

[4] Radius Financial Group, Inc. provides an example of how the performance evaluation process may lead to an improved score. Radius was first evaluated in 2009 and received a rating of Needs Improvement. In its second performance evaluation dated June 2, 2014, (http://www.mass.gov/ocabr/docs/dob/community-reinvestment-act/radius.pdf)Radius received a High Satisfactory rating. Reasons for this improved rating cited in the public Performance Evaluation included:

• The distribution of borrowers reflects, given the demographics of Massachusetts, an excellent record of serving the credit need among individuals of different income levels, including those of low-and moderate-income.

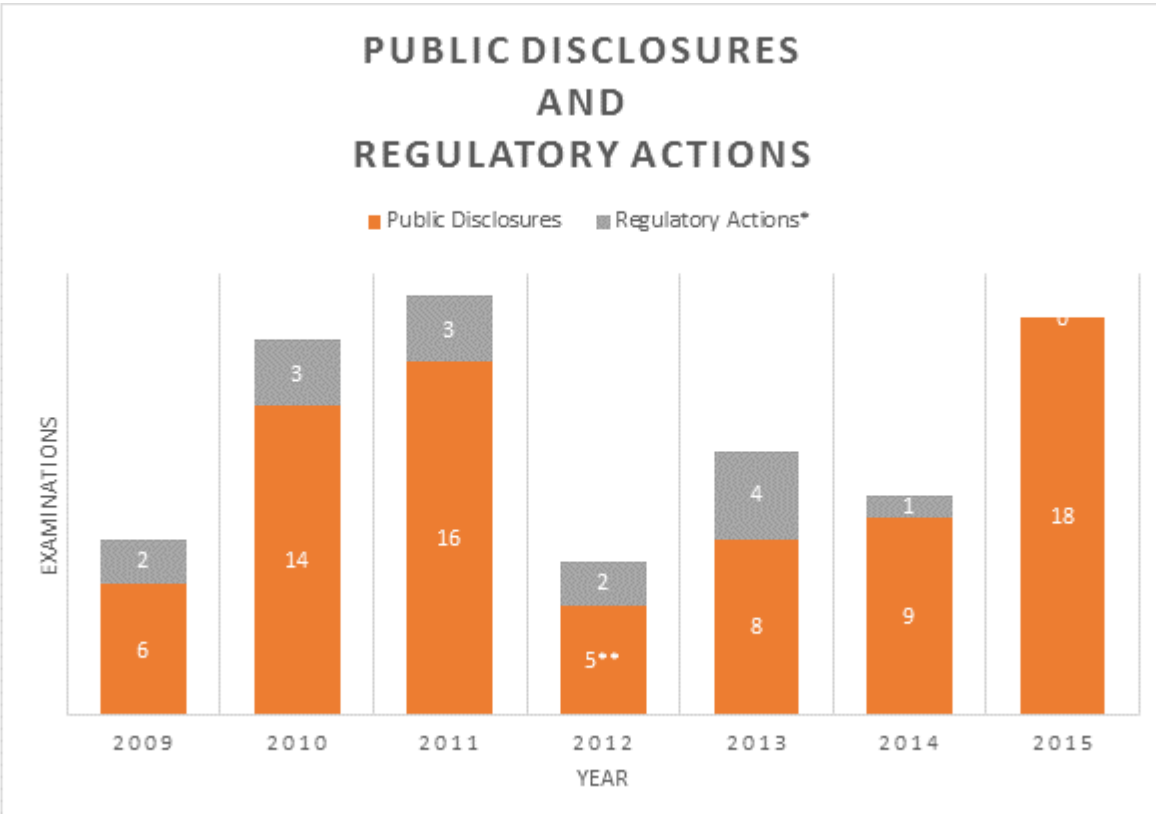
•The geographic distribution of the mortgage lender's loans reflects good dispersion in low- and moderate-income census tracts.

•Radius Financial offers a good number of flexible lending products, which are provided in a safe and sound manner to address the credit needs of low-and moderate-income individuals.

•Fair lending policies and practices are considered good.

•Radius Financial provided an adequate level of Community Development Services in the Commonwealth.

The chart below, "Public Disclosures and Regulatory Actions", indicates the number of "Regulatory Actions" as part of the overall share of "Public Disclosures" for the year to depict the total number of examinations actually performed. A rating is not assigned for certain exams resulting in regulatory actions. MLCI Public Disclosures are posted on the Division's website 45 days after the performance evaluation is completed and the report is mailed to the lender.[5]



*Regulatory Action - **MLCI Consent Orders by Year - Issued for inadequate HMDA data not allowing for accurate MLCI examination.**
**Additional Consent Order issued on Leader Mortgage examination.
*** 2009: October through December.

The DOB made an initial projection of 15-20 examinations per year. While at the beginning of its CRA examination program, the Division was on pace, conducting eight reviews in the final quarter of 2009, 17 in 2010, and 19 in 2011, it conducted only seven reviews in 2012, 12 in 2013, and 10 in 2014. The pace increased in 2015, with 18 Evaluations completed. According to the DOB, this was significantly impacted by lenders' HMDA data-integrity errors and consumer protection violations identified during the course of examinations from 2009-2014. The DOB also noted that consumer protection findings may result in the downgrade of the CRA rating or if significant HMDA data-integrity errors are discovered during the

5 See Regulatory Bulletin: Examination Policy 1.1-101; Examination Rating and Appeal Process 1.1-106

course of an examination, a CRA rating may not be feasible due to the risk of inaccurate mortgage data analysis. Therefore, not all examinations scheduled during a set calendar quarter receive an assigned rating. Affected LMLs under HMDA regulatory actions are given a set period to correct and refile the LML's HMDA data prior to being re-examined by the Division and this process will subsequently delay the rate of assigned ratings for a certain share of MLCI-eligible LMLs. CRA examinations, which include a concurrent review of fair lending practices, policies and procedures, rely on accurate HMDA data for a meaningful analysis of the lender's lending volume, loan distribution, as well as for a comprehensive evaluation of loan operations and underwriting practices. This in-depth assessment conducted by the DOB examiners guarantees a thorough review of possible fair lending violations, underwriting disparities and/or predatory lending practices. [6]

Over the course of the CRA for Mortgage Lenders Task Force work, the Division provided contextual information on the range of reasons for examination fluctuations including; HMDA data concerns, extended staff time for regulatory review, changes in lenders licensing status, and coordination with other compliance examination processes. Despite these reasons, the Task Force highlights that the pace of reviews should continue at this current pace in the future, barring continued data integrity delays, in order to both continue to meet the DOB's own projections for completion of exams, and to make evaluation of the performance of LMLs under the CRA for Mortgage Lenders regulation effective and trackable.

CRA for Mortgage Lenders Exam Findings

A key motivation of the enactment of Chapter 255E, section 8 of the CRA for Mortgage Lenders regulation was to encourage LMLs to perform more like CRA-covered lenders serving traditionally underserved borrowers and neighborhoods. It is important to review the impact of the passage of the CRA for Mortgage Lenders regulation on the performance of LMLs. As an innovative law, enacted only in Massachusetts, it is critical to know whether the law has had an impact, and if so, to what extent.

MCBC's *Changing Patterns* report[7] provides a critical tool for evaluation of LML performance both before and after the passage of CRA for Mortgage Lenders. In its 22nd year, the report has shown a strong and persistent finding that lenders who are subject to CRA perform better than lenders who are not, with performance

[6] The Performance Evaluation of Union Capital provides a good example of a review that uncovered violations. According to the Temporary Order to Cease and Desist issued by the Division of Banks on November 12, 2009 as a result of the MLCI examination (http://www.mass.gov/ocabr/banking-and-finance/laws-and-regulations/enforcement-actions/2009-dob-enforcement-actions/union-capital-mortgage-business-trust.html), "During the course of the MLCI examination, the Division's examiners became concerned with the suitability and sustainability of certain mortgage loans originated by Union Capital". The Order noted that Union Capital had engaged in Unfair and Deceptive Business Practices, including providing false and misleading information about borrowers, misrepresenting occupancy status of borrower properties, and making false or misleading representations of prospective borrowers' income. As a result, Union Capital was ordered to cease and desist all mortgage activities.

[7] Changing Patterns XXII can be found at http://mcbc.info/publications/mortgage-lending/

measured by percentage of loans going to certain categories of traditionally underserved borrowers and neighborhoods. Tables 26-27 of *Changing Patterns XXII* highlight this particular difference between lenders subject to CRA and those who are not.

The *Changing Patterns* reports which covered the initial years of CRA for Mortgage Lenders implementation showed no evidence through 2012 in the relevant tables of any impact of the passage of CRA for Mortgage Lenders on the performance of LMLs relative to CRA-covered lenders (who performed the best), or relative to all other lenders not covered by CRA or CRA for Mortgage Lenders (who performed similarly to LMLs covered by CRA for Mortgage Lenders). *Changing Patterns XXII*, the most recent report covering 2014, showed that

> "The introduction of Performance Evaluations and ratings of individual LMLs under the state's CRA for Mortgage Lenders regulation seems to have had a positive impact on the relative performance of LMLs for second straight year. Since the Changing Patterns series of reports was begun in the mid-1990s, this type of comparison had consistently shown a substantial difference between the performance of CRA-covered lenders and the two other major types of lenders, and proponents of the new regulation argued that it should have an analogous impact on the performance of LMLs relative to that of Other Lenders. The expected effect appeared for the first time in 2013 lending data and it appears again this year. For conventional home- purchase lending in 2014, the loan shares for LMLs were greater than the loan shares for Other Lenders in all five categories of traditionally underserved borrowers and neighborhoods in Boston (by an average of 47%), in all five categories in Greater Boston (by an average of 51%), and in all five categories statewide (by an average of 18%)."[8]

Explanation and Understanding of Regulations and Procedures

Lending Test

The Lending Test of the CRA for Mortgage Lenders Performance Evaluation evaluates a mortgage lender's record of helping to meet the mortgage credit needs of the Commonwealth through its lending activities by considering a mortgage lender's home mortgage and community development lending.

The Lending Test covers five main areas of evaluation including[9]:

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[8] Changing Patterns XXII, Page 16, http://mcbc.info/wp-content/uploads/2015/12/CP22-Report-Dec2015-Final.pdf

[9] 209 CMR 54.22

1. Geographic distribution. The geographic distribution of the mortgage lender's home mortgage loans, based on the loan location, including:

a. The dispersion of lending in the Commonwealth and whether lending arbitrarily excludes low- and moderate-income geographies; and

b. The number and amount of loans in low-, moderate-, middle-, and upper-income geographies in the Commonwealth;

2. Borrower characteristics. The distribution of the mortgage lender's home mortgage loans based on borrower characteristics, including the number and amount of home mortgage loans to low-, moderate-, middle-, and upper-income individuals, including loans to assist existing low- and moderate-income residents to be able to acquire or remain in affordable housing in their neighborhoods at rates and terms that are reasonable considering the mortgage lender's history with similarly situated borrowers;

3. Innovative or flexible lending practices. The mortgage lender's use of innovative or flexible lending practices in a safe and sound manner to address the credit needs of low- and moderate-income individuals or geographies, including loans and other products to assist delinquent home mortgage borrowers to be able to remain in their homes. The Commissioner shall also consider the availability of mortgage loan products that are suitable for such low- and moderate-income individuals;

4. Fair lending. The mortgage lender's performance relative to fair lending policies and practices pursuant to written policies and directives issued by the Commissioner; and

5. Loss of affordable housing. The mortgage lender's number and amount of loans that show an undue concentration and a systematic pattern of lending resulting in the loss of affordable housing units, including a pattern of early payment defaults.

The Task Force found that in general the criteria under which the Lending Test is evaluated and rated are clear and should be easily understood by LMLs. Several areas requiring additional clarity are highlighted below in the Recommendations section. The Lending Test places high priority on improving lending to low- and moderate-income borrowers and neighborhoods, so LMLs seeking to improve their rating under the Lending Test should focus their efforts in this area. LMLs should also be aware that a negative finding under Fair Lending will have a serious impact on the overall rating, and if necessary, may stop the evaluation altogether while a more extensive Fair Lending inquiry is completed, so high priority should be placed here as well.

Service Test
The Service Test of the CRA for Mortgage Lenders Performance Evaluation evaluates a mortgage lender's record of helping to meet the mortgage credit needs in the Commonwealth by analyzing both the availability and effectiveness of a mortgage lender's systems for delivering mortgage loan products, the extent and innovativeness of its community development services, and loss mitigation services to modify loans or otherwise keep delinquent home loan borrowers in their homes.

It has two main subcategories of evaluation; Mortgage Lending Services and Community Development Services, with criteria for evaluation including[10]:

> **1. Mortgage Lending Services.** The Commissioner evaluates the availability and effectiveness of a mortgage lender's systems for delivering mortgage lending services, pursuant to the following criteria:
>
> > a. The availability and effectiveness of systems for delivering mortgage lending services (e.g., internet, telephone solicitation, direct mail) in low- and moderate-income geographies and to low- and moderate-income individuals, including, to the extent applicable, the current distribution of the mortgage lender's branches among low-, moderate-, middle-, and upper-income geographies;
> >
> > b. Efforts to work with delinquent home mortgage loan borrowers to facilitate a resolution of the delinquency, including the number of loan modifications, the timeliness of such modifications, and the extent to which such modifications are effective in preventing subsequent defaults or foreclosures; and
> >
> > c. The range of services provided in low-, moderate-, middle-, and upper- income geographies and the degree to which the services are tailored to meet the needs of those geographies.
>
> **2. Community Development Services.** The Commissioner evaluates community development services pursuant to the following criteria:
>
> > a. The extent to which the mortgage lender provides community development services; and
> >
> > b. The innovativeness and responsiveness of community development services.

In addition, LMLs that achieve at least a "satisfactory" rating under both the Lending and Service Tests may warrant consideration for an overall rating of "high satisfactory" or "outstanding" depending on the mortgage lender's performance in

[10] 24 CMR 54.23 (renumbered for this report)

making qualified investments and community development loans to the extent authorized under law, in accordance with 209 CMR 54.61(2)(c).

The Task Force found that the criteria under which the Service Test is evaluated and rated are less clear so guidance will be critical for LMLs. Review of Public Disclosures and conversations with the DOB highlighted that there is still confusion in the industry as to what constitutes Community Development Services versus Qualified Investments, how LMLs should best prioritize their work and how to document their efforts, among other concerns.

For example, Qualified Investments are only mentioned in one section of the CRA for Mortgage Lenders regulation in 24 CMR 54.61 (2)(c) (apart from the definitions section). This section notes that their role is limited to “A mortgage lender that achieves at least a "satisfactory" rating under both the Lending and Service Tests may warrant consideration for an overall rating of "high satisfactory" or "outstanding." In assessing whether a mortgage lender' performance is "high satisfactory" or "outstanding," the Commissioner will also consider the mortgage lender's performance in making qualified investments and community development loans to the extent authorized under law.[11]” This is in contrast to what has been the general understanding of lenders that Qualified Investments would be considered under the Service Test overall, not just as a potential boost in their overall score.

Because volunteer efforts and monetary contributions are just one component of the Service Test, the DOB, as the state regulatory agency, is limited in terms of the guidance it is able to provide relative to a specific dollar amount for charitable contributions. However, LMLs can establish goals for both contributions and service, and encourage and recognize employees volunteering in LMI communities. As noted in the “Recommendations” section below, further guidance can help to clear up confusion and result in more efficient and targeted use of resources.

Ratings

In addition to reviewing the criteria under the Lending and Service Tests of the Performance Evaluation, the Task Force explored the rating system itself, with the goal of better understanding what contributes to the overall rating for each LML. In this exploration, the Task Force learned that the Public Disclosure of the Performance Evaluation, in accordance with MGL c.255E s. 8 and Regulatory Bulletin: Examination 1.1-101 Examination Policy, does not contain confidential exam information. The Public Disclosure reports on the CRA performance of the lender and provides the assigned rating under each performance criteria, in accordance with 209 CMR 54.00.

The Public Disclosure cannot go into all of the details that the private report provided to the LML itself will cover, in particular the Fair Housing section, and as a result, readers of the Public Disclosures will not be able to understand all of the

[11] 24 CMR 54.61 (2)(c)

components that contribute to the ratings and performance context. In addition, the DOB cannot provide a checklist of what will constitute a specific “score” or rating as they conduct their evaluation. The DOB encouraged the Task Force to think of the ratings as a qualitative descriptor rather than a numerical score. For LMLs, this means that it is critical not just to rely on reviewing Public Disclosures, but to also thoroughly review all regulatory guidance and bulletins, and also speaks to the role that trade organizations can play in creating tools and trainings, as highlighted in the “Recommendations” section below.

This understanding of the rating process underscores the importance for LMLs to be proactive in setting their performance context, setting meaningful goals, self-assessing against regulatory requirements, documenting policies and efforts, and using past exams to adjust activities and priorities, as these actions carry weight in the examination process and will assist the examiner in ascertaining the LML’s line of business and lending operation. For the Task Force, it underscores the importance of providing guidance and trainings to establish a framework under which LMLs can operate, but it is understood that examination of each LML is an individualized process and each LML will have a different experience throughout.

III. Recommendations

Recommendations are addressed to four different key groups that participate or contribute to the understanding and successful implementation of CRA for Mortgage Lenders:

- Licensed Mortgage Lenders
- Division of Banks
- Community Organizations
- Trade Organizations, including MMBA and MCBC

Recommendations to Licensed Mortgage Lenders (LMLs)

1. Increase Lending to LMI Households and in LMI Communities: The Task Force findings clearly highlight the importance and emphasis on the ability of an LML to make significant numbers of loans to LMI Households and in LMI neighborhoods. LMLs should work towards lending rates in these areas that are made in an amount greater than the percentage aggregate. Any lending should be made in a way that is consistent with safe and sound practices.

2. Emphasize Fair Lending: Evidence of discriminatory or other illegal credit practices adversely affects the DOB evaluation. A negative finding under Fair Lending will have a serious impact on the overall rating, and if necessary, may stop the evaluation altogether while a more extensive Fair Lending inquiry is completed. In short, a positive Public Disclosure rating is not possible with a negative Fair Lending review.

3. Establish Written Policies and Procedures: To show that sufficient attention has been paid to Fair Lending and general compliance with all regulations, LMLs must establish written policies and procedures for areas such as training of lenders, evaluation of borrowers, marketing and outreach, application denial process and appeals, among others. In the absence of written policies and procedures, it may be difficult to accurately assess activities at the LML, resulting in a lower rating.

4. Set Annual Goals for LMI Lending and Perform Regular Self-assessment: LMLs should set an annual goal of how many loans they plan to make to low- and moderate-income populations and in other areas of focus. The purpose of goal setting is to assist the LML in self-evaluation throughout the year, based on best efforts to meet the purpose of the CRA for Mortgage Lenders Regulation. Internal goal –setting will not take the place of outside assessment, but may help LMLs to reach levels of performance that are desired by the DOB. Throughout the year, LMLs should complete self-assessments of their efforts and adjust accordingly. When goals are adjusted mid-year, documentation of why and how is equally important to facilitate the evaluation and show positive efforts.

5. Define Performance Context: The DOB evaluation relies on the performance context of the LML to understand the background for a variety of rating criteria. The LML can play an integral role in defining this performance context and should do so to ensure that it reflects the situation and context of operation.

6. Create and Foster Partnerships with Community Organizations: In order to better understand the needs and performance of the community in which an LML operates, both LMLs and the DOB should meet more regularly with community groups. This will also help to better define the performance context. LMLs should further seek to establish partnerships with certified non-profit housing counselors, Massachusetts Homeownership Collaborative members, and MACDC organizations. In addition, LMLs should work directly with community organizations conducting First-Time Homebuyer Education to contribute to homebuyer education and increase outreach to LMI populations.

7. Offer Government-backed Loan (GBL)[12] and/or MassHousing Products: A crucial component of the Lending Test is an LML's ability to offer products that can address the credit needs of low- and moderate-income populations. GBLs and MassHousing products are two of the main ways by which LMLs do

[12] Government-backed Loans, or GBLs, are loans made by private lenders that are insured or guaranteed by the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA), or the Department of Agriculture (USDA).

this. If they are not currently being offered, LMLs should do so in order to better address the credit needs of low- and moderate-income populations.

8. Document Efforts: LMLs are evaluated under the Service Test by their efforts, but often documentation of efforts is incomplete, does not include pertinent information such as the income of persons assisted, or does not exist at all. Absent complete documentation, DOB evaluators are unable to give credit for work being done. LMLs should work to clearly document their efforts and would be helped by templates and trainings.

9. Make Proactive Efforts in Areas of High Impact: LMLs should not simply conduct business as usual and expect ratings to improve. LMLs can set goals, self-assess and make contributions and/or create programs and services that have the highest impact. For example, LMLs should set goals for the dollar amount of contributions, types of groups to receive contributions, volunteer hours and programs at the beginning of each year in order to be able to evaluate successes.

10. Learn From Best Practices: LMLs should look to the banking industry for best practices in service components, as they have been complying with CRA for many years. For example, many Banks make service contributions through activities such as speaking at First-Time Homebuyer Training Classes, volunteering at VITA tax-preparation sites, and serving on Boards of non-profits serving LMI communities.

Recommendations to Division of Banks (DOB)

1. Provide Greater Clarity Overall: As noted above, there remains confusion in the industry about several areas of importance in the CRA for Mortgage Lenders regulation. The Task Force recommends that whenever possible the DOB work to provide clarity to make correspondence more helpful and informative. Wherever possible, writing should be in plain language that can be easily understood even by those unfamiliar with the regulation. Specific recommendations to this point include:
    a. While the Task Force does not recommend changing the text of either the law or the regulation itself, boilerplate introductions at the beginning of the PEs and within each section could be substantially revised for clarity.
    b. The DOB could offer additional guidance to LMLs in various forms. One particularly useful piece of guidance would be to build on the Federal Q&As on CRA by highlighting which sections are applicable to CRA for Mortgage Lenders and which sections are not. Additional explanatory material that adapts and clarifies for a CRA for Mortgage Lenders context could also be produced and distributed.
    c. The DOB should consider creating a page that indicates the relationship between the ratings on individual tests and overall

ratings. This would be analogous to what the federal agencies have done for CRA[13].

2. Provide Clarity in Specific Areas: There remains confusion among LMLs and within the Public Disclosure written by the DOB as to the difference among community development services, mortgage lending services, and qualified investments. Because they are critical components of the Performance Evaluation, confusion regarding definitions of these terms can result in missed opportunities, frustration and ineffective or misdirected programming. In some instances there is confusion among LMLs and regulators as to the eligibility of investments as "qualified investments". Fact sheets and trainings, including examples of each area of interest, should be developed to clear up confusion. In addition, confusion remains in areas of what qualifies a product as Innovative and Flexible; what counts as mortgage services; and how the assessment area is defined (statewide versus more localized and the implications of each).

3. Ensure Timely Pace of Exams: In order to make evaluation of the performance of LMLs under the CRA for Mortgage Lenders effective and trackable by the public, the Task Force recommends that the pace of reviews should continue at the rate achieved during the first half of 2015, i.e. a pace which will allow the DOB to conduct 75-80 exams over the course of four years. The Task Force understands that the DOB makes projections on the number of exams it anticipates conducting, but has discretion to revise projections due to unanticipated issues and challenges.

Recommendations to Community Organizations

Community organizations play a key role in successful implementation of CRA for Mortgage Lenders. As such, they should take a more proactive stance. Community Organizations should develop a better understanding of what types of programs, services, and investments are positively evaluated under the CRA for Mortgage Lenders regulation and should reach out to LMLs to form productive relationships.

In addition, Community Organizations should comment to the DOB on their positive and negative experiences with LMLs, particularly at the time of Performance Evaluations.

Recommendations to Trade Organizations (MMBA and MCBC)

MMBA and MCBC should continue to play a role in ensuring that LMLs, the DOB and Community Organizations work together to improve implementation of CRA for

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[13] For examples see: Page 12 of Federal Reserve Bank of Dallas "A Banker's Quick Reference Guide to CRA" at http://www.dallasfed.org/assets/documents/cd/pubs/quickref.pdf?d=1&s=fedcommunities
and Pages 4-6 of Congressional Research Services "The Effectiveness of the Community Reinvestment Act" at http://www.fas.org/sgp/crs/misc/R43661.pdf

Mortgage Lenders. They can do so by offering trainings and helping to develop boilerplate documents for LMLs.

1. <u>Trainings</u>: Several areas of importance highlighted by the Task Force's work will simply require better training of LMLs. The goal of trainings will be to clarify criteria and definitions, help LMLs understand how to improve their scores, facilitate a smoother evaluation process, and share best practices.

   Topics that should be covered in trainings include:
   - How LMLs can improve their Lending Test rating
   - How to gather accurate HMDA data
   - Fair Lending
   - Defining Community Development Services versus Qualified Investments
   - Helping LMLs set goals and self-assess
   - Helping LMLs understand how to document efforts and investments
   - Clarifying Fair Lending components and helping LMLs to establish written policies and procedures

2. <u>Documentation and Additional Guidance</u>: Several areas of importance noted by the Task Force's work highlight the need for templates for better documentation among LMLs. The goal of documentation assistance will be to share templates that will ensure LMLs receive credit for efforts and facilitate a smoother evaluation process.

   Templates and Guidance should include:
   - Donations and services documentation templates
   - Checklist to determine the impact of donations
   - List of best practices by other lenders
   - LML specific excerpt of FAQs and other materials provided by regulators
   - Links of website to useful organizations and community groups

3. <u>Ongoing Coordination</u>: The Task Force recommends that its efforts should continue in some format, whether through a continued Task Force, regular meetings of MCBC with the DOB, or regular reports of the DOB to the MCBC Mortgage Lending Committee. A suggestion would be to have the DOB report back to the MCBC Mortgage Lending Committee every six months at a regular meeting and participate in a discussion with Committee members. The report should cover both ratings and enforcement actions taken in the prior six months.

IV. Areas for Further Research

In addition, despite best efforts, the varying roles and perspectives of the Task Force membership and/or limited available information resulted in several unresolved issues which would benefit from additional guidance or review by the DOB and partners. It is worth noting that the Task Force has been informed that the amended regulation, as prompted by the Governor's Executive Order 562: *To Reduce Unnecessary Regulatory Burden*, may address clarifications needed under Service Test and Community Development.

Areas for Further Research include:

a. What should the role of GBLs be in the Innovative or Flexible Lending Practices section of the Lending Test? Through the review of Public Disclosures and conversations with the DOB, it became clear that offering a GBL loan product has positive effect under the Innovative or Flexible Lending Practices component of the Lending Test, and that they do not differentiate between GBLs and MassHousing products. While GBLs offer an opportunity for low-down payment mortgages and often allow for borrowers who would not normally have access to credit to obtain a mortgage, the Task Force debated the merit of considering a GBL as Innovative or Flexible when compared to the state-specific products offered by MassHousing.

b. Should the Assessment Area be statewide or defined by the LML? The DOB notes that the regulation defines the assessment area for all LMLs as statewide, as required by the statute. The Task Force noted that this may not have been the original intent of the regulation and also may not be the most effective process. Different definition of Assessment Area is important for lenders to understand, because the Assessment Area determines the aggregate against which a LML's lending is compared. Statewide Assessment Areas will likely have a different aggregate of LMI or minority borrowers than a particular county or region, and may have an impact on the LML's ability to compare favorably to their peers. The DOB did note that the Commissioner applies these tests in the context of the "Performance Context" of the lender (see 209 CMR 54.21(2). The Lender may present "the mortgage lender's product offerings and business strategy as determined from data provided by the mortgage lender in the Commonwealth". This data may include information where the lender generates the majority of its mortgage business as its defined business strategy for performance consideration, or for purposes of clarifying the lender's assessment area. However, the DOB reports that in the few cases where it has used a smaller assessment area, this has had no positive effect on the rating, and in fact had a negative effect in some instances.

c. What is the role of servicing in the community development service part of the Service Test? The Task Force felt that clarification was needed regarding the role of servicing, particularly for those LMLs who do not service loans. It is important to note that for those LMLs who are not servicing loans, they are not penalized for this in the evaluation process.

d. While not a recommendation, some expressed concern that it may not be possible for an LML to receive an Outstanding rating in current circumstances. Given that most LMLs do not service loans, do not have a branch presence, and do not make portfolio loans, is it possible, under the current regulation, for an LML to receive an Outstanding rating? Some members of the Task Force expressed concern about the criteria to achieve higher ratings and whether they are achievable for Lenders who do not service loans, and whether the ratings need to be revisited.

Appendix A: List of Public Disclosures **Reviewed**

Licensed Mortgage Lender	**Date of Exam**
Maverick Funding	January 2, 2013
Mid-Island Mortgage	March 29, 2013
MSA Mortgage	August 13, 2013
Schaefer Mortgage	January 29, 2013
United Shore Financial Services	December 12, 2013

To view a listing of all of the Public Disclosures, go to http://www.mass.gov/ocabr/banking-and-finance/banks-and-credit-unions/community-reinvestment-act/cra-for-mortgage-lenders-ratings-and-public.html.