

that the 1994 proposal placed too little emphasis on the location of an institution's full service branches in evaluating performance under the service test. Many of those commenters also were concerned that the proposed service test would have erroneously equated ATMs with full service branches. On the other hand, several industry commenters commended the proposal's recognition that full service branches should not be the determining factor under the service test as consistent with the trend in the industry toward the use of alternative service delivery systems.

The final rule responds to these issues by adjusting the balance of the service performance evaluation in favor of full-service branches while still considering alternative systems. In this regard, references to ATMs in the criteria for evaluating the distribution of an institution's branches have been removed, and conforming changes have been made in the ratings appendix. These changes signify a recognition that convenient access to full-service branches within a community is an important factor in determining the availability of credit and non-credit services. The focus of the service test, however, remains on an institution's current distribution of branches, and the test does not require an institution to expand its branch network or operate unprofitable branches.

The final rule emphasizes that alternative systems for delivering retail banking services, such as ATMs, are to be considered only to the extent that they are effective alternatives in providing needed services to low- and moderate-income areas and individuals. Furthermore, network ATMs owned by other institutions do not receive the same consideration in an institution's evaluation as ATMs owned by or operated exclusively for that institution.

An institution's branches and other service delivery systems need not be accessible to every part of an institution's assessment area. However, the service delivery systems should not exhibit conspicuous gaps in accessibility, particularly to low- or moderate-income areas or individuals, unless the gaps are adequately explained by the performance context.

Other issues. The final rule conforms the community development services component of the service test to that of the investment test by giving consideration to community development services that benefit a broader statewide or regional area encompassing an institution's assessment area.

Some of the specific suggestions in the comments were not implemented in the final rule. For example, the rule does not require institutions to provide basic banking services or low-cost checking accounts, because the CRA permits institutions substantial leeway to determine the specific policies and programs that help meet credit needs in their communities. In addition, the final rule does not evaluate the effectiveness of service performance on the basis of deposit growth. This measurement is not clearly related to helping to meet the credit needs of the community and could necessitate burdensome coding of deposit accounts on a geographic basis. Finally, debit cards are not a retail credit delivery system, and therefore the agencies have not included debit cards in the list of examples of alternative delivery systems for retail services.

Community Development Test

The performance of wholesale and limited purpose institutions would have been evaluated in the 1994 proposal separately under the community development test. This test would have focused on the record of these institutions in helping to meet credit needs through community development lending, qualified investments, and community development services. The 1994 proposal also would have required wholesale or limited purpose institutions to serve a designated local area and would have placed limits on consideration of activities outside this designated area. The final rule maintains the community development test with some changes.

Request for designation as a wholesale or limited purpose institution. In response to comments on the 1994 proposal, the final rule provides more detail on the process by which an institution is designated wholesale or limited purpose. An institution that seeks designation as wholesale or limited purpose must file a request in writing at least three months prior to the proposed effective date of the designation. If the designation is approved, it remains in effect until the institution requests revocation of the designation or until one year after the agency notifies the institution that the agency has revoked the designation on its own initiative. Thus, once an institution has received a designation, the institution need not reapply before each CRA examination.

Benefit to assessment area. Many commenters, including both industry and some community group commenters, maintained that the limitations placed on considering out-of-assessment area activities were too

restrictive and did not account for the broader business strategies and operations of wholesale and limited purpose institutions, which often serve communities on a nationwide basis.

The final rule removes the specific limitation that community development activities outside an institution's assessment area be considered only up to the amount of activities within the institution's assessment area. Under the final rule, the agencies consider all activities that benefit the institution's assessment area(s) or a broader statewide or regional area that includes the assessment area(s). In addition, other activities receive full consideration as long as the institution has adequately addressed the needs of its assessment area.

Technical changes and clarifications. The final rule clarifies that investments in third party community development organizations may be treated either as qualified investments or as community development loans (with the institution receiving credit for a pro rata share of the loans made by the third party, at the institution's option). In addition, the agencies note that a wholesale or limited purpose institution need not engage in all three categories of activities considered under the community development test but can perform well under the test by engaging in one or more of these categories. Technical changes have also been made to conform with the modifications, previously discussed, to the definition of community development loans, the definitions of wholesale and limited purpose institutions, and the focus of lending performance assessments on originations and purchases rather than loans outstanding.

Small Institution Performance Standards

The small institution performance standards have been retained in the final rule essentially as proposed in 1994, except for the change in the eligibility threshold described earlier. As a technical matter, the final rule has been changed to clarify that an institution that was a small institution as of the end of the prior calendar year is examined as a small institution.

Many commenters, predominantly representing community organizations but also including some larger institutions, stated that the streamlined approach would amount to a *de facto* exemption from CRA for small institutions. Other commenters, predominantly representing the industry, supported the proposal for streamlined examinations and an exemption from new data collection and