

# Joint CRA proposed regulations: Defined terms shed light on the road ahead

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**Disclaimer:**

*This document is intended to provide accurate and authoritative information as a starting point for analysis of a recent regulatory proposal. For complete and definitive requirements, please refer to the existing and proposed rules. If you desire legal advice or other expert assistance, you should seek professional advice from legal counsel, or the services of such competent individuals as you may select. This document does not constitute legal interpretation, guidance, or advice from Wolters Kluwer. It does not bind Wolters Kluwer and does not create any rights, benefits, or defenses, substantive or procedural, which are enforceable by any party in any manner.*

*The Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) published a Joint Notice of Proposed Rulemaking that presents a new evaluation framework and criteria by which those agencies assess a bank's record of helping to meet the credit needs of its community. This document uses the CRA definitions as a means by which to shed light on the basic outline of the regulators' current thinking about community reinvestment issues.*

On June 3, 2022, the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) published in the Federal Register a [Joint Notice of Proposed Rulemaking and Request for Comment](#) (NPR) that presents what is intended to be a substantial update of their respective Community Reinvestment Act regulations. As stated in the NPR, the objectives of the proposed rulemaking include:

- (i) updating the CRA regulations to strengthen the achievement of the core purpose of the law;
- (ii) adapting to changes in the banking industry, including the expanded role of mobile/online banking;
- (iii) providing greater clarity and consistency in the application of the regulations;
- (iv) tailoring performance standards to account for differences in bank size, business models, and local conditions;
- (v) tailoring data collection and reporting requirements and using existing data whenever possible;
- (vi) promoting transparency and public engagement;
- (vii) confirming that CRA and fair lending responsibilities are mutually reinforcing; and
- (viii) creating a consistent regulatory approach that applies to banks regulated by all three agencies.

This document lays out the current and proposed CRA definitions (presented primarily but not exclusively at § \_\_.12 in the regulations) side-by-side in a table format for ease of comparison, with each followed by appropriate summaries, commentary, and some relevant information from the NPR published in the *Federal Register* on June 3. For now we have deferred analysis of detailed CRA compliance requirements and have avoided long quotations from the *Federal Register*, and have opted instead for concise statements of the defined terms, summary information to provide context, and relevant references to the NPR for when readers desire further details.

**NOTE:** In what follows:

- Citations with the form “§ \_\_.##(#)” refer to the sections and subsections of the current and proposed CRA regulations that are common to all three federal regulators - 12 CFR Part 228 (FRB), 12 CFR Part 345 (FDIC) and 12 CFR Part 25 (OCC), as applicable
- Minor textual differences under the agencies' regulations will be noted where that is necessary for clarity
- Underlined text in the Proposed Definition column (e.g., “census tract”) is intended to draw attention to revised and/or added text
- References to the *Federal Register* (e.g., 87 FR 34005) are to the [Joint Notice of Proposed Rulemaking and Request for Comment](#) (NPR) published in the *Federal Register*

## Definitions

### PART \_\_\_\_ COMMUNITY REINVESTMENT

#### Subpart A—General

#### § \_\_.12 Definitions.

#### Types of Institutions/Facilities

Current Definition	Proposed Definition §.12
<b>Affiliate</b>	
§.12(a) <b>Affiliate</b> means any company that controls, is controlled by, or is under common control with another company. The term “control” has the meaning given to that term in <a href="#">12 U.S.C. 1841(a)(2)</a> , and a company is under common control with another company if both companies are directly or indirectly controlled by the same company.	*No change*

**WK annotation: Affiliate.** The term “affiliate” is related to, and should be understood in connection with, the proposed definitions “operations subsidiary” (FRB) and “operating subsidiary” (OCC and FDIC) (referred to collectively in the Federal Register preamble as “bank subsidiaries”). Those latter proposed terms refer to bank affiliates whose activities would be required to be attributed to a bank’s CRA performance. The regulators would continue to allow banks to exercise flexibility with respect to the inclusion or exclusion of activities of other bank affiliates that are not considered “bank subsidiaries.”

Current Definition	Proposed Definition §.12
<b>Community Development Financial Institution (CDFI)</b>	
*Not a defined term under current regulations*	<div style="text-align: right; color: white; background-color: #0070C0; padding: 2px 5px; font-weight: bold;">*New*</div> <p><i>Community Development Financial Institution (CDFI)</i> has the same meaning given to that term in section 103(5)(A) of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.).</p>

**WK annotation: Community Development Financial Institution (CDFI).** This term is defined by reference to 12 U.S.C. 4701 et seq., Section 103(5)(A) – in particular, [12 U.S.C. 4702\(5\)\(A\)](#), which defines *Community Development Financial Institution* as follows:

- (A) IN GENERAL.—The term “community development financial institution” means a person (other than an individual) that—
- (i) has a primary mission of promoting community development;
  - (ii) serves an investment area or targeted population;
  - (iii) provides development services in conjunction with equity investments or loans, directly or through a subsidiary or affiliate;
  - (iv) maintains, through representation on its governing board or otherwise, accountability to residents of its investment area or targeted population; and
  - (v) is not an agency or instrumentality of the United States, or of any State or political subdivision of a State.

Current Definition	Proposed Definition §_12
<b>Automated teller machine (ATM) [Remote Service Facility (RSF)]</b>	
<p>§_12(d)</p> <p><b>Automated teller machine (ATM) [Remote Service Facility (RSF)]</b> means an automated, unstaffed banking facility owned or operated by, or operated exclusively for, the bank [or savings association] at which deposits are received, cash dispersed, or money lent.</p> <p><b>Minor Textual Differences:</b></p> <p>The OCC's definition refers to a bank or a savings association. The FDIC's regulation uses the defined term "Remote Service Facility (RSF)" in lieu of "automated teller machine." It presents the common definition, and includes examples such as automated teller machines, cash dispensing machines, point-of-sale terminals, and other remote electronic facilities. [§345.12(d)]</p>	<p style="text-align: center;">*Not a defined term under proposed regulations*</p>

**WK annotation: Automated teller machine (ATM)/Remote Service Facility (RSF).** See NEW "Remote service facility" definition.

Current Definition	Proposed Definition §_12
<b>Bank [Savings association]</b>	
<p>§228.12(e)</p> <p><b>Bank</b> means a State member bank as that term is defined in section 3(d)(2) of the Federal Deposit Insurance Act (<a href="#">12 U.S.C. 1813(d)(2)</a>), except as provided in <a href="#">§ 228.11(c)(3)</a>, and includes an uninsured State branch (other than a limited branch) of a foreign bank described in <a href="#">§ 228.11(c)(2)</a>.</p> <p>§345.12(e)</p> <p><b>Bank</b> means a State nonmember bank, as that term is defined in section 3(e)(2) of the Federal Deposit Insurance Act, as amended (FDIA) (<a href="#">12 U.S.C. 1813(e)(2)</a>), with Federally insured deposits, except as provided in <a href="#">§ 345.11(c)</a>. The term bank also includes an insured State branch as defined in <a href="#">§ 345.11(c)</a>.</p> <p>§25.03(e)</p> <p>(1) <b>Bank or savings association</b> means, except as provided in §25.11(c), a national bank (including a Federal branch as defined in part 28 of this chapter) with Federally insured deposits or a savings association; (2) <b>Bank and savings association</b> means, except as provided in §25.11(c), a national bank (including a Federal branch as defined in part 28 of this chapter) with Federally insured deposits and a savings association.</p>	<div style="text-align: right; border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto;">*Revised*</div> <p style="text-align: center;"><b>Bank</b> means [<a href="#">Agency definition of bank</a>].</p>

**WK annotation: Bank.** This term is defined in the NPR with reference to each agency's definition, including details that pertain to the charter and office types within each agency's jurisdiction.

**NOTE:** See relevant discussion at 87 FR 33885, fn2. In summary: The NPR uses the term "bank" to mean, collectively, insured national and state banks, Federal and state savings associations, Federal branches (12 CFR part 28), and insured state branches (12 CFR §345.11(c)).

Current Definition	Proposed Definition §_12
<b>Branch</b>	
<p>§_12(f)</p> <p><b>Branch</b> means a staffed banking facility approved [authorized] as a branch, whether shared or unshared, including, for example, a mini-branch in a grocery store or a branch operated in conjunction with any other local business or nonprofit organization.</p> <p><b>Minor Textual Differences:</b></p> <p>The FRB's current definition refers to a staffed banking facility "approved" as a branch (§ 228.12(f)). The OCC's and the FDIC's current definitions refer to staffed banking facilities "authorized" as a branch (§ 25.12(f) and § 345.12(f), respectively). The FDIC limits the term "branch" to a "domestic branch," as that term is defined in section 3(o) of the FDIA (12 U.S.C. 1813(o)).</p>	<div data-bbox="1403 268 1536 317" style="background-color: #92d050; padding: 2px; text-align: center;">*Revised*</div> <p><b>Branch</b> means a staffed banking facility, whether shared or unshared, that is approved <u>or authorized</u> as a branch <u>by the [Agency] and that is open to, and accepts deposits from, the general public.</u></p>

**WK annotation: Branch.** This term, as defined in the NPR, no longer includes examples of locations that could be deemed "branches" and is described as the location approved "or authorized as a branch by the [Agency] and that is open to, and accepts deposits from, the general public."

Q&A § \_\_.12(f)—1: staffed mobile offices authorized as branches are considered to be branches.

**NOTE:** See relevant discussion at 87 FR 33917. In summary: Under the NPR, banks will continue to delineate assessment areas where they have branches (among others), as branches remain an essential way of defining communities (despite a decline in numbers). The proposed revised definition will:

- Retain existing regulatory language to make clear that staffed physical locations are "branches" whether or not the physical location is a shared space,
- Remove the examples of shared physical locations without intent to change or narrow the meaning. (Current examples are illustrative only, and do not fully reflect types of potential shared locations.)

The NEW language "open to, and accepts deposits from, the general public" is intended to underscore that the term "branch" under the NPR will capture new bank business models, with different types of names for staffed physical locations, when those locations are open to the public and collect deposits from customers. (This is not intended to be a change from current standards, but is intended to emphasize that staffed physical locations open to the general public and that collect deposits from customers are "branches," regardless of whether the location is referred to as a "branch" by the bank.) The word "public" is intended to include in the definition any staffed physical location that is open to bank customers by appointment only, and "open to the general public" – but to exclude staffed physical locations that are only open to bank employees.

Current Definition	Proposed Definition §_12
<b>Intermediate bank</b>	
<p style="text-align: center;">*Not a defined term under current regulations*</p>	<div style="text-align: right; margin-bottom: 10px;"><span style="background-color: #0070C0; color: white; padding: 2px 5px; font-weight: bold;">*New*</span></div> <p><i>Intermediate bank</i> means a bank that had average assets of at least \$600 million in both of the prior two calendar years and less than \$2 billion in either of the prior two calendar years, based on the assets reported on its four quarterly Call Reports for each of those calendar years. The \$600 million figure and the \$2 billion figure will be adjusted annually and published by the [Agency], based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million.</p>

**WK annotation: *Intermediate bank*.** The current regulations define the terms “small bank” and “intermediate small bank.” In the proposed rule, the size designations are as follows: (i) small bank, (ii) intermediate bank, and (iii) large bank.

The average asset-size level established by the NPR for intermediate banks will be at least \$600 million in **both** of the prior two (2) calendar years and less than \$2 billion in **either** of the prior two (2) calendar years.

- This asset size determination will be based on a bank’s average assets over four quarters of the calendar year, for two consecutive calendar years
- If a bank’s average assets correspond to two different bank size categories in two consecutive years, the bank will belong to the smaller of the two size categories
- The dollar figures will be adjusted annually, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million

**NOTE:** See relevant discussion at 87 FR 33886. In summary: Intermediate small banks are currently those with assets of at least \$346 million as of December 31 of both of the prior two calendar years and less than \$1.384 billion as of December 31 of either of the prior two calendar years (or \$330 million and \$1.322 billion for banks subject to the OCC’s regulations). See also 87 FR 33889: Under the NPR, intermediate banks will be banks that had average quarterly assets, computed annually, of at least \$600 million in both of the prior two calendar years and less than \$2 billion in either of the prior two calendar years.

See also the proposed definitions of “Small bank” and “Large bank.”

Current Definition	Proposed Definition §_12
<b>Large bank</b>	
<p style="text-align: center;"><i>*Not a defined term under current regulations*</i></p>	<div style="text-align: right; margin-bottom: 10px;"><span style="background-color: #0070C0; color: white; padding: 2px 5px; font-weight: bold;">*New*</span></div> <p><i>Large bank</i> means a bank that had average assets of at least \$2 billion in both of the prior two calendar years, based on the assets reported on its four quarterly Call Reports for each of those calendar years. The \$2 billion figure will be adjusted annually and published by the [Agency], based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million.</p>

**WK annotation: Large bank.** The current regulations define the terms “small bank” and “intermediate small bank.” In the proposed rule, the size designations are as follows: (i) small bank, (ii) intermediate bank, and (iii) large bank. The current regulations do not include a defined term that applies to banks that are larger than the maximum size of intermediate small banks. Such banks are, however, informally referred to as “large banks,” and the NPR itself uses that terminology.

Currently, banks with assets of more than \$1.384 billion as of December 31 of both of the prior two calendar years are evaluated under separate lending, investment, and service tests. They are not expressly defined as “large banks,” but that informal designation (including in the NPR) is common.

The average asset-size of a large bank under the NPR will be at least \$2 billion in **both** of the prior two (2) calendar years, with annual adjustments of that figure in accordance with the regulations.

**NOTE:** See relevant discussion at 87 FR 33886. In summary: The informal designation “large bank” currently applies to banks with assets of more than \$1.384 billion as of December 31 of both of the prior two calendar years (or \$330 million and \$1.322 billion for banks subject to the OCC’s regulations). See also 87 FR 33889: Under the NPR, large banks will be banks that had average quarterly assets, computed annually, of at least \$2 billion in both of the prior two calendar years.

See also the proposed definitions of “Small bank” and “Intermediate bank.”

Current Definition	Proposed Definition §_12
<b>Limited purpose bank</b>	
<p>§_12(n)</p> <p><b>Limited purpose bank</b> means a bank [or savings association] that offers only a narrow product line (such as credit card or motor vehicle loans) to a regional or broader market and for which a designation as a limited purpose bank is in effect, in accordance with [§_.25(b)].</p> <p><b>Minor Textual Differences:</b></p> <p><i>In the current definitions of each of the agencies, this term is defined with respect to a limited purpose bank designation in accordance with their respective regulations (i.e., § 228.25(b); § 345.25(b); and § 25.25(b), as applicable). In addition, the OCC’s definition refers to banks and savings associations, as opposed to just banks.</i></p>	<div style="text-align: right; background-color: #92d050; padding: 5px;"><b>*Revised*</b></div> <p><i>Limited purpose bank</i> means a bank that offers only a narrow <u>retail</u> product line (such as credit cards, <u>other revolving consumer credit plans, other consumer loans, or other non-reported commercial and farm loans</u>) to a regional or broader market and for which a designation as a limited purpose bank is in effect, in accordance with § __.26.</p>

**WK annotation: Limited purpose bank.** Under the NPR, this term continues to refer to a bank that offers only a narrow product line (now clarified as a “retail” product line), with examples including not only credit cards, but (instead of just vehicle loans) also other revolving consumer credit plans, other consumer loans, or other non-reported commercial and farm loans). The revised definition refers to the limited purpose bank designation under § \_\_.26 (rather than the current § \_\_.25(b)).

See discussion in Q&A § \_\_.12(n): “Niche” institutions are, generally, excluded; “narrow” product line means lending activities **other than** traditional retail product line required to be evaluated.

Current Definition	Proposed Definition §_12
<b>Loan production office</b>	
<p>§_12(p)</p> <p><b>Loan production office</b> means a staffed facility, other than a branch, that is open to the public and that provides lending-related services, such as loan information and applications.</p>	<p><i>*Not a defined term under proposed regulations*</i></p>

**WK annotation: Loan production office.** The phrase “loan production office” is not a defined term in the NPR, though it does appear once in the proposed rule. See § \_\_.43(a)(5).

Owing to the variety of ways that loan productions offices are used by banks, the agencies considered proposing that a bank’s loan production offices should automatically constitute a facility-based assessment area. That is not part of the NPR as published in June, 2022.

Current Definition	Proposed Definition §_12
<b>Low-income credit union (LICU)</b>	
<p style="text-align: center;"><i>*Not a defined term under current regulations*</i></p>	<div style="text-align: right; border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto;"><b>*New*</b></div> <p><i>Low-income credit union (LICU)</i> has the same meaning given to that term in 12 CFR 701.34.</p>

**WK annotation: *Low-income credit union (LICU)*.** This term is defined in the NPR by reference to 12 CFR §701.34. (A credit union qualifies for the LICU designation as a low-income credit union under [12 CFR 701.34](#), if a majority of its membership qualifies as low-income members.) See that regulation section for related matters, including standards for identifying “low-income members.”

**NOTE:** The National Credit Union Administration is not an “appropriate Federal financial supervisory agency,” as that term is defined in the Community Reinvestment Act. See 12 U.S.C. 2902(1). There are no CRA regulations issued by the NCUA, but the NCUA and credit unions more generally are referenced in laws pertaining to community development banking and financial institutions (12 U.S.C. 4701 et seq.) In light of that, the term “low-income credit union (LICU)” appears in the NPR and is included among the new defined terms.

Current Definition	Proposed Definition §_12
<b>Military bank</b>	
<p style="text-align: center;"><i>*Not a defined term under current regulations*</i></p>	<div style="text-align: right; border: 1px solid black; padding: 2px; width: fit-content; margin: 0 auto;"><b>*New*</b></div> <p><i>Military bank</i> means a bank whose business predominately consists of serving the needs of military personnel who serve or have served in the armed forces (including the U.S. Air Force, U.S. Army, U.S. Coast Guard, U.S. Marine Corps, and U.S. Navy) or dependents of military personnel.</p>

**WK annotation: *Military bank*.** This term is defined in the NPR to mean a bank whose business predominantly consists of serving the needs of current, or former, military personnel, or their dependents. The proposed rule includes the current provision under which a bank whose business predominantly consists of serving the needs of military personnel or their dependents who are not located within a defined geographic area may delineate its entire deposit customer base as its assessment area. (See the current provision at § \_\_41(f), and at § \_\_16(d) in the proposed revision.)



Current Definition	Proposed Definition §_12
<b>Minority depository institution (MDI)</b>	
<p><i>*Not a defined term under current regulations*</i></p>	<div style="text-align: right; margin-bottom: 10px;"><span style="background-color: #0070c0; color: white; padding: 2px 5px; font-weight: bold;">*New*</span></div> <p><i>Minority depository institution (MDI)</i> means an entity that:</p> <ol style="list-style-type: none"> <li>(1) For purposes of activities conducted pursuant to 12 U.S.C. 2907(a) (i.e., donating, selling on favorable terms (as determined by the [Agency]), or making available on a rent-free basis any branch of the bank, which is located in a predominately minority neighborhood) has the meaning given to that term in 12 U.S.C. 2907(b)(1); and</li> <li>(2) For all other purposes: <ol style="list-style-type: none"> <li>(i) Has the meaning given to that term in 12 U.S.C. 2907(b)(1);</li> <li>(ii) Is a minority depository institution, as defined in section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 1463 note); or</li> <li>(iii) Is considered to be a minority depository institution by the appropriate Federal banking agency. For purposes of this paragraph, “appropriate Federal banking agency” has the meaning given to it in 12 U.S.C. 1813(q).</li> </ol> </li> </ol>

**WK annotation: *Minority depository institution (MDI)*.** This term is defined in the NPR differently for different purposes and means:

1. For purposes of activities conducted under 12 U.S.C. 2907(a) (i.e., CRA provisions identifying activities around branch facilities operated by minorities and women) - institutions meeting the “minority depository institution” definition under the CRA (12 U.S.C. 2907(b)(1)); and
2. For all other purposes - a “minority depository institution” as defined by
  - a. CRA (12 U.S.C. 2907(b)(1)), or
  - b. FIRREA, Section 308 (12 U.S.C. 1463 note); or
  - c. the appropriate Federal banking agency, as that term is defined at 12 U.S.C. 1813(q).

For purposes identified in the first part of this definition, this term means a depository institution for which:

- (A) more than 50% of the ownership or control of which is held by one or more minority individuals; and
- (B) more than 50% of the net profit or loss of which accrues to one or more minority individuals.

(12 U.S.C. [2907\(b\)\(1\)](#))

Under FIRREA Section 308, mentioned in the second part of this definition, a minority depository institution is any depository institution meeting the following criteria:

- (A) if a privately owned institution, 51% is owned by one or more socially or economically disadvantaged individuals;
- (B) if publicly owned, 51% of the stock is owned by one or more socially or economically disadvantaged individuals; and
- (C) in the case of a mutual institution, the majority of the Board of Directors, account holders, and the community which it services is predominantly minority.

**NOTE:** In the NPR, the agencies did not include insured credit unions designated by the National Credit Union Administration as MDIs, but they are seeking feedback on whether such credit unions should be included. See the discussion regarding LICUs above for further context on this matter.

Current Definition	Proposed Definition §_12
<b>[Operations subsidiary or operating subsidiary]</b>	
*Not a defined term under current regulations*	<b>*New*</b> [Operations subsidiary or operating subsidiary] means [Agency definition of operations subsidiary or operating subsidiary].

**WK annotation:** [Operations subsidiary or operating subsidiary]. Under the NPR, this term will be defined by the respective agencies.

**NOTE:** See relevant discussion at 87 FR 33889. In summary: **Currently**, banks may elect to include or exclude activities of affiliates that are not “subsidiaries.” Under the NPR, banks will retain this flexibility, but activities of “subsidiaries” (referred to in the NPR as “bank subsidiaries”) will be required to be considered as part of a bank’s CRA performance.

See also 87 FR 33925. In summary: under the NPR, subsidiary activities (as a component of a bank’s operations, including evidence of illegal or discriminatory practices) for subsidiaries over which a bank exercises a high level of ownership, control, and management will be reasonably attributable to the bank. The NPR adds the definition of “operations subsidiary” to the FRB’s CRA regulation (to mean operations subsidiaries of state member banks), and a definition of “operating subsidiary” for subsidiaries of national banks, Federal savings associations, state non-members banks and state savings associations - to the FDIC’s and OCC’s CRA regulations. As used in the NPR:

An “operations subsidiary” (FRB) means an organization designed to serve, in effect, as a separately incorporated department of the bank, performing functions that the bank is empowered to perform directly at locations at which the bank is authorized to engage in business.

An “operating subsidiary” (OCC) means an operating subsidiary as described in: (i) 12 CFR §5.34 in the case of an operating subsidiary of a national bank; and (ii) 12 CFR §5.38 in the case of an operating subsidiary of a Federal or state savings association.

An “operating subsidiary” (FDIC) for state non-member banks and state branches described in the FDIC’s regulation will have the same meaning as given in the OCC’s regulations for operating subsidiaries of national banks (i.e., the term means an operating subsidiary as described in 12 CFR 5.34).

Current Definition	Proposed Definition §_12
<b>Remote service facility</b>	
*Not a defined term under current regulations*	<b>*New*</b> <i>Remote service facility</i> means an automated, virtually staffed, or unstaffed banking facility owned or operated by, or operated exclusively for, a bank, such as an automated teller machine (ATM), interactive teller machine, cash dispensing machine, or other remote electronic facility at which deposits are received, cash dispersed, or money lent.

**WK annotation:** *Remote service facility*. The new term “remote service facility” replaces use of the term “ATM” throughout the proposed regulation. This term refers to the range of various types of non-branch facilities better than any of the individual examples (e.g., ATM, cash dispensing machine, etc.) or all of them collectively. The proposal also replaces “deposit-taking ATM” with “deposit-taking remote service facility.”

**NOTE:** See relevant discussion at 87 FR 33918. In summary: Under the NPR, facility-based assessment areas are delineated around “remote service facilities”, which will cover not only ATMs, but also a range of non-branch facilities (e.g., interactive or virtual ATMs connected with bank staff via a terminal).

Current Definition	Proposed Definition §_12
<b>Small bank [or savings association]</b>	
<p>§_12(u)</p> <p><b>Small bank -</b></p> <p>(1) <b>Definition.</b> <i>Small bank [or savings association]</i> means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than [Agency limit]. <i>Intermediate small bank [or savings association]</i> means a small bank [or savings association] with assets of at least [Agency limit] as of December 31 of both of the prior two calendar years and less than [Agency limit] as of December 31 of either of the prior two calendar years.</p> <p>(2) <b>Adjustment.</b> The dollar figures in <a href="#">paragraph (u)(1)</a> of this section shall be adjusted annually and published by the [Agency], based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each twelve-month period ending in November, with rounding to the nearest million.</p> <p><b>Minor Textual Differences:</b></p> <p><i>The definition refers to the dollar figures published by the appropriate agencies. Current asset size thresholds are the same under FRB and FDIC regulations:</i></p> <p><i>Small – less than \$1.384 billion; Intermediate small – at least \$346 million and less than \$1.384 billion [§ 28.12(u) and § 345.12(u), respectively].</i></p> <p><i>The OCC’s definition [§ 25.12(u)] refers to banks and savings associations, as opposed to just banks. The OCC’s asset size thresholds differ from those published by the FRB and the FDIC, as follows: Small – less than \$1.322 billion; Intermediate small – at least \$330 million and less than \$1.322 billion.</i></p>	<div data-bbox="1403 268 1536 317" style="background-color: #92d050; padding: 2px; text-align: center;">*Revised*</div> <p><i>Small bank</i> means a bank that <u>had average assets of less than \$600 million in either of the prior two calendar years, based on the assets reported on its four quarterly Call Reports for each of those calendar years.</u> The \$600 million figure will be adjusted annually and published by the [Agency], based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million.</p>

**WK annotation: Small bank.** The current regulations define the terms “small bank” and “intermediate small bank.” In the proposed rule, the size designations are as follows: (i) small bank, (ii) intermediate bank, and (iii) large bank. In the NPR, the term “small bank” refers to a bank that had average assets of less than \$600 million in either of the prior two (2) calendar years, based on the assets reported on its four (4) quarterly Call Reports for each of those calendar years.

- This asset size determination will be based on a bank’s average assets over four quarters of the calendar year, for two consecutive calendar years
- If a bank’s average assets correspond to two different bank size categories in two consecutive years, the bank will belong to the smaller of the two size categories

The dollar figures will be adjusted annually, based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million.

Current Definition	Proposed Definition §_12
<b>Wholesale bank [or savings association]</b>	
<p>§_12(x)</p> <p><b>Wholesale bank [or savings association]</b> means a bank that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale bank is in effect, in accordance with [§ _25(b)].</p> <p><b>Minor Textual Differences:</b></p> <p><i>In the current definitions of each of the agencies, this term is defined with respect to a wholesale bank designation in accordance with their respective regulations (i.e., § 228.25(b); § 345.25(b); and § 25.25(b), as applicable). In addition, the OCC’s definition refers to banks and savings associations, as opposed to just banks.</i></p>	<div data-bbox="1239 268 1536 317" style="background-color: #333; color: white; padding: 5px; text-align: center;">*No substantive change*</div> <p><b>Wholesale bank</b> means a bank that is not in the business of extending home mortgage, small business, small farm, or consumer loans to retail customers, and for which a designation as a wholesale bank is in effect, in accordance with § __.26.</p>

**WK annotation: Wholesale bank.** The definition in the NPR refers to the wholesale bank designation under § \_\_.26 (rather than § \_\_.25(b), which is the current citation). See discussion in Q&A § \_\_.12(x): A wholesale institution may make some retail loans without losing its wholesale designation. The agencies consider specific factors when determining whether an institution is in the business of extending retail loans, including whether the institution’s revenues from extending such loans are significant when compared to its overall operations, including off-balance sheet activities.

Current Definition	Proposed Definition §_12
<b>Women’s depository institution (WDI)</b>	
<p style="text-align: center;">*Not a defined term under current regulations*</p>	<div data-bbox="1433 1104 1531 1152" style="background-color: #0070C0; color: white; padding: 5px; text-align: center;">*New*</div> <p><b>Women’s depository institution (WDI)</b> has the same meaning given to that term in 12 U.S.C. 2907(b)(2).</p>

**WK annotation: Women’s depository institution (WDI).** In the NPR, this term is defined with respect to the corresponding definition in the CRA, that is a depository institution (as defined in section 1813(c), i.e., a bank or savings association) with the following characteristics:

- (i) more than 50% of the ownership or control is held by 1 or more women;
- (ii) more than 50% of the net profit or loss accrues to 1 or more women; and
- (iii) a significant percentage of senior management positions are held by women.

(12 U.S.C. 2907(b)(2))

**NOTE:** See relevant discussion at 87 FR 33908. In summary: The NPR does not add an alternative definition because the agencies adopted the statutory definition in its entirety and without alteration (unlike their handling of the related term “MDI”).

## Types of Credit Products/Services

Current Definition	Proposed Definition §_12
<b>Affordable housing</b>	
*Not a defined term under current regulations*	<div style="text-align: right;"><b>*New*</b></div> Affordable housing means activities described in §_13(b).

**WK annotation: Affordable housing.** This NEW term is defined in the NPR by reference to NEW § \_\_.13(b). In summary, affordable housing under the NPR is defined to mean activities that support affordable housing for low- or moderate-income (LMI) individuals, such as:

- Rental housing in conjunction with government plans, programs, etc., with a stated purpose or bona fide intent of providing affordable housing to LMI individuals
- Multifamily rental housing rents if, for the majority of the units, the monthly rent underwritten by the bank does not exceed 30% of 60% of the area median income for the metropolitan area or nonmetropolitan county; and one or more additional conditions are met
- Certain activities that support affordable owner-occupied housing for low- or moderate-income individuals, including activities that directly assist low- or moderate-income individuals to obtain, maintain, rehabilitate, or improve affordable owner-occupied housing or activities that support programs, projects, or initiatives that assist such support
- The purchase of mortgage-backed securities that contain a majority of either loans financing housing for low- or moderate-income individuals or loans financing housing that otherwise qualifies as affordable housing

Current Definition	Proposed Definition §_12
<b>Closed-end home mortgage loan</b>	
*Not a defined term under current regulations*	<div style="text-align: right;"><b>*New*</b></div> Closed-end home mortgage loan has the same meaning given to the term “closed-end mortgage loan” in 12 CFR 1003.2(d), excluding multifamily loans as defined in this section.

**WK annotation: Closed-end home mortgage loan.** This term is defined in the NPR by reference to the way the same phrase is defined in the CFPB’s HMDA regulation (Regulation C; 12 CFR §1003.2(d)), but excluding multifamily loans as defined in CRA Regulations.

Under [12 CFR §1003.2\(d\)](#), “[c]losed-end mortgage loan means an extension of credit that is secured by a lien on a dwelling and that is not an open-end line of credit under [12 CFR §1003.2(o)].” (See also the Reg. C Official Staff Commentary at [Paragraph 2\(d\)](#).)

[12 CFR §1003.2\(o\)](#) defines an “[o]pen-end line of credit” to mean “an extension of credit that: (1) Is secured by a lien on a dwelling; and (2) Is an open-end credit plan as defined in Regulation Z, 12 CFR [§1026.2\(a\)\(20\)](#), but without regard to whether the credit is consumer credit, as defined in [§1026.2\(a\)\(12\)](#), is extended by a creditor, as defined in [§1026.2\(a\)\(17\)](#), or is extended to a consumer, as defined in [§1026.2\(a\)\(11\)](#).” (See also the Reg. C Official Staff Commentary at [Paragraph 2\(o\)](#).)

Current Definition	Proposed Definition §_12
<b>Community development</b>	
<p>§_12(g)</p> <p><b>Community development</b> means:</p> <ol style="list-style-type: none"> <li>(1) Affordable housing (including multifamily rental housing) for low- or moderate-income individuals;</li> <li>(2) Community services targeted to low- or moderate-income individuals;</li> <li>(3) Activities that promote economic development by financing businesses or farms that meet the size eligibility standards of the Small Business Administration’s Development Company or Small Business Investment Company programs (<a href="#">13 CFR 121.301</a>) or have gross annual revenues of \$1 million or less; or</li> <li>(4) Activities that revitalize or stabilize -               <ol style="list-style-type: none"> <li>(i) Low-or moderate-income geographies;</li> <li>(ii) Designated disaster areas; or</li> <li>(iii) Distressed or underserved nonmetropolitan middle-income geographies designated by the [Agencies], based on -                   <ol style="list-style-type: none"> <li>(A) Rates of poverty, unemployment, and population loss; or</li> <li>(B) Population size, density, and dispersion. Activities revitalize and stabilize geographies designated based on population size, density, and dispersion if they help to meet essential community needs, including needs of low- and moderate-income individuals.</li> </ol> </li> </ol> </li> </ol> <p><b>NOTE:</b> The definition refers to distressed or underserved nonmetropolitan middle-income geographies designated by the Agencies.</p>	<div style="text-align: right; background-color: #92d050; padding: 5px; width: fit-content; margin: 0 auto;">*Revised*</div> <p><b>Community development</b> means activities described in § __.13(b) through (l).</p> <p><b>NOTE:</b> The identified § __.13 subsections address:</p> <ul style="list-style-type: none"> <li>• Affordable housing</li> <li>• Economic development</li> <li>• Community supportive services</li> <li>• Revitalization activities</li> <li>• Essential community facilities activities</li> <li>• Essential community infrastructure activities</li> <li>• Recovery activities in designated disaster areas</li> <li>• Disaster preparedness and climate resiliency activities</li> <li>• Activities with MDIs, WDIs, LICUs, or CDFIs</li> <li>• Financial literacy activities</li> <li>• Qualifying activities in Native Land Areas</li> </ul>

**WK annotation: Community development.** This term is defined in the NPR by reference to activities described in § \_\_.13(b) through (l). In summary:

**Affordable housing [See § \_\_.13(b)]** (See “Affordable housing,” above.)

**Economic development [See § \_\_.13(c)]**

Economic development activities that

- Are undertaken consistently with government plans, programs, etc., that support small banks or small farms (as defined in the plans, programs, etc.) including to:
  - SBA Certified Development Company
  - Small Business Investment Company
  - New Markets Venture Capital Company
  - qualified Community Development Entity
  - USDA Rural Business Investment Company
- Provide support of financial intermediaries that extend loans, investments or technical assistance to businesses or farms with gross annual revenues of up to \$5 million
- Provide technical assistance supporting, or services (e.g., shared space, technology or administrative assistance) to, businesses or farms with gross annual revenues of up to \$5 million, or to organizations with a primary purpose of supporting such businesses or farms

**Community supportive services [See § \_\_.13(d)]**

- “Community supportive services” are general welfare services that serve or assist LMI individuals (e.g., childcare, education, workforce development and job training programs), and health services and housing services programs that serve or assist LMI individuals.

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### **Revitalization activities undertaken in conjunction with a government plan, program, or initiative [See § \_\_.13(e)]**

- “Revitalization activities” are those undertaken in conjunction with government plans, programs, etc., with an explicit focus on revitalizing or stabilizing targeted census tracts
- A “revitalization activity” must (i) benefit or serve residents, including LMI residents, in one or more of the targeted census tracts; and (ii) not displace or exclude LMI residents in the targeted census tracts

### **Essential community facilities activities [See § \_\_.13(f)]**

- “Essential community facilities activities” provide financing or other support for public facilities that offer essential services accessible by a local community
- An “essential community facilities activity” must (i) benefit or serve residents, including LMI residents, in one or more of the targeted census tracts; (ii) not displace or exclude LMI residents in the targeted census tracts; and (iii) be conducted in conjunction with a federal, state, local, or tribal government plan, program, or initiative that includes an explicit focus on benefitting or serving the targeted census tracts

### **Essential community infrastructure activities [See § \_\_.13(g)]**

- “Essential community infrastructure activities” provide financing and other support for infrastructure (e.g., broadband, telecommunications, mass transit, water supply and distribution, and sewage treatment and collection systems)
- An “essential community infrastructure activity” must be conducted in targeted census tracts that meet the following criteria: (i) the activities benefit or serve residents, including LMI residents, in one or more of the targeted census tracts; (ii) the activities do not displace or exclude LMI residents in the targeted census tracts; and (iii) the activities must be conducted in conjunction with a federal, state, local, or tribal government plan, program, or initiative that includes an explicit focus on benefitting the targeted census tracts

### **Recovery activities in designated disaster areas [See § \_\_.13(h)]**

Recovery activities in designated disaster areas:

- Revitalize or stabilize geographic areas subject to a Major Disaster Declaration administered by FEMA
- Subject to a temporary exception by the agencies, exclude activities that revitalize or stabilize counties designated to receive only certain FEMA assistance
- Are eligible for 36 months after a Major Disaster Declaration, subject to extension by the agencies
- Benefit or serve, and do not displace or exclude, residents of such geographic areas; and
- Are conducted in conjunction with government plans, programs, etc., with an explicit focus on benefitting the designated disaster area

### **Disaster preparedness and climate resiliency activities [See § \_\_.13(i)]**

- “Disaster preparedness and climate resiliency activities” assist individuals and communities to prepare for, adapt to, and withstand natural disasters, weather-related disasters, or climate-related risks
- A “disaster preparedness and climate resiliency activity” is conducted in targeted census tracts and (i) benefits or serves residents, including LMI residents, in one or more of the targeted census tracts; (ii) does not displace or exclude LMI residents in the targeted census tracts; and (iii) must be conducted in conjunction with a federal, state, local, or tribal government plan, program, or initiative focused on disaster preparedness or climate resiliency that includes an explicit focus on benefitting a geographic area that includes the targeted census tracts

### **Activities with MDIs, WDIs, LICUs, or CDFIs [See § \_\_.13(j)]**

Activities with certain mission-driven financial institutions include:

- Loans, investments and other ventures by banks (including MDIs and WDIs) in cooperation with MDIs, other WDIs, or LICUs
- Loans, investments and service activities with Treasury-certified CDFIs (which will be presumed to qualify for consideration)

### **Financial literacy [See § \_\_.13(k)]**

- “Financial literacy activities” assist individuals and families in making informed financial decisions regarding managing income, savings, credit, and expenses, including homeownership-related

### **Qualifying activities in Native Land Areas [See § \_\_.13(l)]**

- “Activities in Native Land Areas” are related to revitalization, essential community facilities, essential community infrastructure, and disaster preparedness and climate resiliency that are specifically targeted to and conducted in Native Land Areas
- Qualifying activities in Native Land Areas must (i) benefit or serve residents, including LMI residents, of Native Land Areas, (ii) not displace or exclude those LMI residents; and (iii) be conducted in conjunction with a Federal, state, local, or tribal government plan, program, or initiative that benefits or serves residents of Native Land Areas

Current Definition	Proposed Definition §_12
<b>Community development investment</b>	
<p style="text-align: center;">*Not a defined term under current regulations*</p>	<div style="text-align: right; border: 1px solid black; padding: 2px; width: fit-content; margin-bottom: 10px;">*New*</div> <p><i>Community development investment</i> means a lawful investment, including a legally binding commitment to invest that is reported on Schedule RC-L of the Consolidated Reports of Condition and Income as filed under 12 U.S.C. 1817 (Call Report), deposit, membership share, grant, or monetary or in-kind donation that has a primary purpose of community development, as described in § __.13(a).</p>

**WK annotation: Community development investment.** This term is defined in the NPR to mean a lawful investment (with examples) that has a primary purpose of community development, as described in NEW § \_\_.13(a). It should, therefore, be read and understood in connection with that section. The sense of this new term carries forward the meaning and purpose of the term “qualified investment,” which is in the current regulations and is removed by the NPR.

**Primary purpose of community development. [See § \_\_.13(a)(1)]**

An activity (loan, investment or service) is deemed to have a **primary purpose** of community development in the following cases:

- If the **majority** of its dollars, applicable beneficiaries, or housing units (as the case may be) are for one or more community development purposes described in § \_\_.13 (a)(2)
- If the bona fide intent of the activity is one or more of the community development purposes under § \_\_.13(a)(2), and the activity is specifically structured to achieve, or is reasonably certain to accomplish, the community development purpose

**Community development purposes. [See § \_\_.13(a)(2)]**

An activity (loan, investment or service) that promotes one or more of the following has a purpose of community development:

- Affordable housing that benefits LMI individuals [See § \_\_.13(b)]
- Economic development that supports small businesses or small farms [See § \_\_.13(c)]
- Services that support the community by serving or assisting LMI individuals [See § \_\_.13(d)]
- Revitalization activities in conjunction with government plans, programs, etc., that must explicitly focus on revitalization or stabilizing targeted census tracts [See § \_\_.13(e)]
- Essential community facilities that benefit or serve residents of targeted census tracts [See § \_\_.13(f)]
- Essential community infrastructure that benefits or serves residents of targeted census tracts [See § \_\_.13(g)]
- Recovery activities supporting revitalization of designated disaster areas [See § \_\_.13(h)]
- Disaster preparedness and climate resiliency activities that benefit or serve residents of targeted census tracts [See § \_\_.13(i)]
- Activities undertaken with MDIs, WDIs, LICUs, or Treasury Department-certified CDFIs [See § \_\_.13(j)]
- Financial literacy programs or initiatives, including housing counseling [See § \_\_.13(k)]
- Activities in Native Land Areas that benefit or serve residents of those areas [See § \_\_.13(k)]



Current Definition	Proposed Definition §_12
<b>Community development loan</b>	
<p>§_12(h)</p> <p><b>Community development loan</b> means a loan that:</p> <ol style="list-style-type: none"> <li>(1) Has as its primary purpose community development; and</li> <li>(2) Except in the case of a wholesale or limited purpose bank [or savings association]: <ol style="list-style-type: none"> <li>(i) Has not been reported or collected by the bank [or savings association] or an affiliate for consideration in the bank's [or savings association's] assessment as a home mortgage, small business, small farm, or consumer loan, unless the loan is for a multifamily dwelling (as defined in <a href="#">§ 1003.2(n) of this title</a>); and</li> <li>(ii) Benefits the bank's [or savings association's] assessment area(s) or a broader statewide or regional area that includes the bank's [or savings association's] assessment area(s).</li> </ol> </li> </ol> <p><b>Minor Textual Differences:</b></p> <p><i>The OCC's definition refers to banks and savings associations, as opposed to just banks.</i></p>	<div style="text-align: right; background-color: #92d050; padding: 5px; width: fit-content; margin: 0 auto;">*Revised*</div> <p><b>Community development loan</b> means a loan, <u>including a legally binding commitment to extend credit, such as a standby letter of credit</u>, that:</p> <ol style="list-style-type: none"> <li>(1) Has a primary purpose of community development, <u>as described in § __.13(a)</u>; and</li> <li>(2) Has not been <u>considered</u> by the bank, an <u>[operations subsidiary or operating subsidiary]</u> of the bank, or an affiliate of the bank under the Retail Lending Test as an <u>automobile loan, closed-end home mortgage loan, open-end home mortgage loan, small business loan, or small farm loan</u>, unless: <ol style="list-style-type: none"> <li>(i) The loan is for a multifamily dwelling (as defined in <u>12 CFR 1003.2(n)</u>); or</li> <li>(ii) <u>In the case of an intermediate bank that is not required to report a home mortgage loan, a small business loan, or a small farm loan, the bank may opt to have the loan considered under the Retail Lending Test in § __.22 or under the intermediate bank community development performance standards in § __.29(b)(2), or, if the bank opts in, the Community Development Financing Test in § __.24.</u></li> </ol> </li> </ol>

**WK annotation: Community development loan.** This term is revised in the NPR in subsection (1):

- To clarify that the term includes “a legally binding commitment to extend credit, such as a standby letter of credit”
- To reference the definition of “community development” in the NEW § \_\_.13(a)

Under Subsection (2), the term is revised in the NPR to include loans that have not already been considered by the bank or its affiliates under the Retail Lending Test, excepting multifamily dwelling loans, and intermediate banks that could opt in consideration under the Retail Lending Test (or the intermediate bank community development performance standards, or Community Development Financing Test).

Under the NPR, this definition **excludes** qualifying conditions that are part of the current definition regarding “[b]enefits [to] the bank’s assessment area(s) or a broader statewide or regional area that includes the bank’s assessment area(s).” The NEW § \_\_.13(a) builds onto existing guidance in Q&A § \_\_.12(h).

Current Definition	Proposed Definition §_12
<b>Community development service</b>	
<p>§_12(i)</p> <p><b>Community development service</b> means a service that:</p> <ol style="list-style-type: none"> <li>(1) Has as its primary purpose community development;</li> <li>(2) Is related to the provision of financial services; and</li> <li>(3) Has not been considered in the evaluation of the bank’s [or savings association’s] retail banking services under §_24(d).</li> </ol> <p><b>Minor Textual Differences:</b></p> <p><i>The definition refers to the evaluation of retail banking services under the Agencies’ respective regulations (i.e., § 228.24(d); § 345.24(d); or §25.24(d), as applicable). In addition, the OCC’s definition refers to banks and savings associations, as opposed to just banks.</i></p>	<div style="text-align: right; background-color: #92d050; padding: 5px;">*Revised*</div> <p><i>Community development services</i> means activities described in § __.25(d).</p>

**WK annotation: Community development services.** This term is defined in the NPR by reference to § \_\_.25. Under § \_\_.25(d), “community development services” **include** activities that meet the following characteristics:

- (i) they have primary purpose of community development [See § \_\_.13(a)(1)];
- (ii) they are volunteer activities performed by bank board members or employees of the bank; and
- (iii) they are related to financial services [See § \_\_.25(d)(3)], subject to limitations in § \_\_.25 (d)(4). [§ \_\_.25(d)(1)]

Community development services **exclude** volunteer activities by bank board members or employees of the bank who are **not** acting in their capacity as representatives of the bank. [§ \_\_.25(d)(2)]

*Activities related to the provision of financial services.* [§ \_\_.25(d)(3)]. Activities related to the provision of financial services would, generally, include activities that relate to credit, deposit, and other personal and business financial services. The proposed regulation includes this non-exclusive list of examples:

- Serving on the board of directors of an organization that has a primary purpose of community development
- Providing technical assistance on financial matters to non-profit, government, or tribal organizations or agencies supporting community development activities
- Support for fundraising to organizations that have a primary purpose of community development
- Financial literacy education [See § \_\_.13(k)]
- Services reflecting other areas of expertise at the bank, such as human resources, information technology, and legal services

*Community development services in nonmetropolitan areas.* [§ \_\_.25(d)(4)]. Banks may receive community development services consideration for volunteer activities that are unrelated to financial services, if undertaken in nonmetropolitan areas and meet the community development criteria. Non-exclusive examples include:

- Assisting an affordable housing organization to construct homes
- Volunteering at an organization that provides community support (e.g., soup kitchen or homeless or domestic violence victims shelter)
- Organizing or otherwise assisting with a clothing drive or a food drive for a community service organization

The definition and examples incorporate much of the current guidance in Q&A § \_\_.12(i).

Current Definition	Proposed Definition §.12
<b>Consumer loan</b>	
<p>§.12(j)</p> <p><b>Consumer loan</b> means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a home mortgage, small business, or small farm loan. Consumer loans include the following categories of loans:</p> <ol style="list-style-type: none"> <li>(1) <b>Motor vehicle loan</b>, which is a consumer loan extended for the purchase of and secured by a motor vehicle;</li> <li>(2) <b>Credit card loan</b>, which is a line of credit for household, family, or other personal expenditures that is accessed by a borrower’s use of a “credit card,” as this term is defined in <a href="#">§ 1026.2 of this chapter</a>;</li> <li>(3) <b>Other secured consumer loan</b>, which is a secured consumer loan that is not included in one of the other categories of consumer loans; and</li> <li>(4) <b>Other unsecured consumer loan</b>, which is an unsecured consumer loan that is not included in one of the other categories of consumer loans.</li> </ol>	<div style="text-align: right; background-color: #92d050; padding: 5px; width: fit-content; margin: 0 auto;">*Revised*</div> <p><b>Consumer loan</b> means a loan to one or more individuals for household, family, or other personal expenditures. A consumer loan does not include a <u>closed-end home mortgage loan</u>, <u>an open-end home mortgage loan</u>, <u>a multifamily loan</u>, a small business loan, or a small farm loan. A consumer loan includes the following categories of loans:</p> <ol style="list-style-type: none"> <li>(1) <b>Automobile loan</b>, which <u>means</u> a consumer loan extended for the purchase of and secured <u>by a new or used passenger car or other vehicle, such as a minivan, a pickup truck, a sport-utility vehicle, a van, or a similar light truck for personal use, as defined in Schedule RC-C of the Call Report</u>;</li> <li>(2) <b>Credit card loan</b>, which <u>means</u> a line of credit for household, family, or other personal expenditures that is accessed by a borrower’s use of a “credit card,” as defined in 12 CFR 1026.2;</li> <li>(3) <b>Other revolving credit plan</b>, which <u>means a revolving credit plan</u> that is not accessed by credit card; and</li> <li>(4) <b>Other consumer loan</b>, which is a <u>consumer loan</u> that is not included in one of the other categories of consumer loans.</li> </ol>

**WK annotation: Consumer loan.** This term is clarified in the NPR to specifically exclude closed-end and open-end mortgages (rather than simply home mortgage loans) and multifamily loans. In addition, under the NPR:

- Examples of consumer loans continue to include purchases of vehicles (now referred to as “automobiles”), with clarifications to specifically include new or used vehicles, with specific examples (as defined in Schedule RC-C of the Call Report)
- Definitions of “other secured” and “other unsecured” consumer loans have been replaced with “other revolving credit plan” (i.e., revolving plans other than those accessed by a card) and the catch-all category of all “other consumer loans.”

See discussion in Q&A § \_\_.12(j)—1: consumer loans include consumer-purpose home equity loans **other than** home purchase, home improvement (or refinance of either).

Current Definition	Proposed Definition §_.12
<b>Deposits</b>	
<p style="text-align: center;">*Not a defined term under current regulations*</p>	<div style="text-align: right; background-color: #0070c0; color: white; padding: 2px 5px; font-weight: bold;">*New*</div> <p><i>Deposits</i>, for purposes of this part, has the following meanings:</p> <ol style="list-style-type: none"> <li>(1) For banks that collect, maintain, and report deposits data as provided in § __.42, <i>deposits</i> means deposits in domestic offices of individuals, partnerships, and corporations, and of commercial banks and other depository institutions in the U.S. as defined in Schedule RC-E of the Call Report; deposits does not include U.S. Government deposits, state and local government deposits, domestically held deposits of foreign governments or official institutions, or domestically held deposits of foreign banks or other foreign financial institutions;</li> <li>(2) For banks that collect and maintain, but that do not report, deposits data as provided in § __.42, <i>deposits</i> means deposits in domestic offices of individuals, partnerships, and corporations, and of commercial banks and other depository institutions in the U.S. as defined in Schedule RC-E of the Call Report; deposits does not include U.S. Government deposits, state and local government deposits, domestically held deposits of foreign governments or official institutions, or domestically held deposits of foreign banks or other foreign financial institutions, except that, for purposes of the Retail Lending Test’s Market Volume Benchmark and for all community development financing benchmarks, <i>deposits</i> has the same meaning as in the FDIC’s Summary of Deposits Reporting Instructions;</li> <li>(3) For banks that do not collect and maintain deposits data as provided in § __.42, <i>deposits</i> has the same meaning as in the FDIC’s Summary of Deposits Reporting Instructions.</li> </ol>

**WK annotation: Deposits.** This term is defined in the NPR separately for three groups of banks. See also the definition of “deposit location” below, which is defined with respect to the same three groups.

- For banks that collect, maintain, and report deposits data, this term refers to deposits as defined in [Schedule RC-E of the Call Report](#) (with specific **exclusions**)
- For banks that collect and maintain, but that do not report, deposits data the term refers to deposits as defined in Schedule RC-E of the Call Report (with specific exclusions), **except that** for purposes of the Retail Lending Test’s Market Volume Benchmark and for all community development financing benchmarks, the term “deposits” has the same meaning as in the FDIC’s Summary of Deposits Reporting Instructions
- For banks that do not collect and maintain deposits data, the term has the same meaning as in the FDIC’s [Summary of Deposits Reporting Instructions](#)

**NOTE:** See relevant discussion at 87 FR 33995-33996. In summary: The term “deposits” for banks that collect and maintain deposits data is defined in the NPR based on the two subcategories of the Call Report category of Deposits in Domestic Offices - (i) individuals, partnerships, corporations and (ii) commercial banks and other depository institutions in the United States. These two subcategories account for the majority of deposit dollars captured in the Call Report categories of Deposits in Domestic Offices.

The definition of “deposits” in the NPR **excludes** domestically held deposits of foreign banks, foreign governments and institutions. The reason for that exclusion is that they are not derived from a bank’s domestic customer base. The proposed definition also excludes U.S., state, and local government deposits because those deposits are sometimes subject to restrictions and may be periodically rotated among different banks, causing fluctuations in the level of deposits over time.

Current Definition	Proposed Definition §_12
<b>Home mortgage loan</b>	
<p>§_12(l)</p> <p><b>Home mortgage loan</b> means a closed-end mortgage loan or an open-end line of credit as these terms are defined under <a href="#">§ 1003.2 of this title</a> and that is not an excluded transaction under <a href="#">§ 1003.3(c)(1)</a> through (10) and (13) of this title.</p>	<p style="text-align: right;"><b>*Revised*</b></p> <p><b>Home mortgage loan</b> means a closed-end home mortgage loan or an open-end home mortgage loan as these terms are defined in <a href="#">this section</a> and that is not an excluded transaction under 12 CFR 1003.3(c)(1) through (10) and (13).</p>

**WK annotation: Home mortgage loan.** Under the NPR, this term continues to mean closed-end or open-end mortgages that are not excluded from HMDA coverage. The cross-references in the proposed definition are no longer to those terms as defined in Regulation C, but are to the relevant section of the CRA regulations.

See discussion in Q&A § \_\_.12(l)—1: “Home mortgage loan” includes home purchase, home improvement and refinancing as defined under HMDA.

Current Definition	Proposed Definition §_12
<b>Low-cost education loan</b>	
<p><i>*Not a defined term under current regulations*</i></p>	<p style="text-align: right;"><b>*New*</b></p> <p><b>Low-cost education loan</b> means any private education loan, as defined in section 140(a)(7) of the Truth in Lending Act (15 U.S.C. 1650(a)(8)) (including a loan under a state or local education loan program), originated by the bank for a student at an “institution of higher education,” as generally defined in sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002) and the implementing regulations published by the U.S. Department of Education, with interest rates and fees no greater than those of comparable education loans offered directly by the U.S. Department of Education. Such rates and fees are specified in section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e).</p>

**WK annotation: Low-cost education loan.** This term is defined in the NPR to mean a private education loan under section 140(a)(7) of TILA ([15 U.S.C. 1650\(a\)\(8\)](#)) (including a loan under a state or local education loan program), with the following characteristics:

- The loan is originated by the bank for a student at an “institution of higher education,” as defined under Sections 101 and 102 of the Higher Education Act of 1965 (20 U.S.C. 1001 and 1002) and the implementing U.S. Department of Education regulations
- The interest rates and fees for the loan do not exceed those of comparable education loans offered directly by the U.S. Department of Education (specified in Section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e))

Under [Section 140\(a\)\(8\) of TILA](#), a “private education loan” meets the following criteria:

- provided by a private educational lender; and
- is not made, insured, or guaranteed under of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and
- is issued expressly for postsecondary educational expenses to a borrower, regardless of whether the loan is provided through the educational institution that the subject student attends or directly to the borrower from the private educational lender; and
- does not include an extension of credit under an open-end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling.

Current Definition	Proposed Definition §_12
<b>Multifamily loan</b>	
*Not a defined term under current regulations*	Multifamily loan means a loan for a “multifamily dwelling” as defined in 12 CFR 1003.2(n). <span style="float: right;">*New*</span>

**WK annotation: Multifamily loan.** Under the NPR this term means a loan for a “multifamily dwelling,” as defined under HMDA (i.e., a dwelling, regardless of construction method, that contains 5 or more individual dwelling units.) (12 CFR §1003.2(n))

Current Definition	Proposed Definition §_12
<b>Open-end home mortgage loan</b>	
*Not a defined term under current regulations*	Open-end home mortgage loan has the same meaning as given to the term “open-end line of credit” in 12 CFR 1003.2(o), excluding multifamily loans as defined in this section. <span style="float: right;">*New*</span>

**WK annotation: Open-end home mortgage loan.** This term is defined in the NPR to mean “open-end line of credit” as that term is defined in the CFPB’s Regulation C, but excluding multifamily loans as that term is defined in the CRA regulations.

Current Definition	Proposed Definition §_12
<b>Qualified investment</b>	
§_12(t)  Qualified investment means a lawful investment, deposit, membership share, or grant that has as its primary purpose community development.	*Not a defined term under proposed regulations*

**WK annotation: Qualified investment.** This currently defined term has been deleted from the proposed regulations, and the sense of its meaning and purpose have been carried forward in the NEW defined term “community development investment.”

Current Definition	Proposed Definition §_12
<b>Retail banking services</b>	
*Not a defined term under current regulations*	Retail banking services means retail financial services provided by a bank to consumers, small businesses, and small farms and includes a bank’s systems for delivering retail financial services. <span style="float: right;">*New*</span>

**WK annotation: Retail banking services.** In the NPR, this term is defined to mean retail financial services that a bank provides to consumers, small businesses, or farms. The term also includes a bank’s systems for delivering those services.

Current Definition	Proposed Definition §_.12
<b>Retail loan</b>	
<p><i>*Not a defined term under current regulations*</i></p>	<div style="text-align: right; color: white; background-color: #0070C0; padding: 2px 5px; font-weight: bold;">*New*</div> <p><i>Retail loan.</i></p> <p>(1) For purposes of the Retail Lending Test in § __.22, retail loan means an automobile loan, closed-end home mortgage loan, open-end home mortgage loan, multifamily loan, small business loan, or small farm loan;</p> <p>(2) For all other purposes, retail loan means a consumer loan, home mortgage loan, small business loan, or small farm loan.</p>

**WK annotation: Retail loan.** In the NPR, this term is defined separately for the Retail Lending Test, and for other purposes. Some types of loans are within scope for both purposes.

- For purposes of the Retail Lending Test, the term refers to automobile loans, closed-end home mortgage loans, open-end home mortgage loans, multifamily loans, small business loans, and small farm loans
- For all other purposes, the term refers to consumer loans, home mortgage loans, small business loans, and small farm loans

**NOTE:** See relevant discussion at 87 FR 33928. In summary:

- Closed-end mortgages, open-end mortgages and multifamily loans will be aggregated into separate product lines
- Automobile lending will be evaluated to recognize its importance to LMI communities

Current Definition	Proposed Definition §_.12
<b>Small business</b>	
<p><i>*Not a defined term under current regulations*</i></p>	<div style="text-align: right; color: white; background-color: #0070C0; padding: 2px 5px; font-weight: bold;">*New*</div> <p><i>Small business</i> means a business that had gross annual revenues for its preceding fiscal year of \$5 million or less.</p>

**WK annotation: Small business.** In the NPR, this term means a business with gross annual revenues for its preceding fiscal year of up to \$5 million. The agencies propose to define “small business” consistently with the CFPB’s Section 1071 proposal (86 FR 56356 (Oct. 8, 2021), as corrected by 86 FR 70771 (Dec. 13, 2021), and to begin applying the new term for CRA evaluation purposes when Section 1071 becomes final, and small business loan data is available. (The agencies will continue using existing data to evaluate distribution of lending to businesses with revenues of up to \$1 million in the interim.)

**NOTE:** See relevant discussion at 87 FR 33890, 33929. In summary: The use of Section 1071 definitions of “small business” and “small farm” (assuming the CFPB finalizes them as proposed) is subject to the SBA approval, which the agencies are seeking.

Current Definition	Proposed Definition §.12
<b>Small business loan</b>	
§.12(v) <b>Small business loan</b> means a loan included in “loans to small businesses” as defined in the instructions for preparation of the Consolidated Report of Condition and Income.	<div style="text-align: right;"><b>*Revised*</b></div> <b>Small business loan</b> means, <u>notwithstanding the definition of “small business” in this section</u> , a loan included in “loans to small businesses” as defined in the instructions for preparation of the Call Report.

**WK annotation: Small business loan.** In the NPR, this term means a loan included in “loans to small businesses”, as that phrase is defined in the [Call Report instructions](#) (notwithstanding the definition of “small business,” above). See discussion in Q&A § \_\_.12(v): Loans to nonprofits, or secured by commercial real estate, or credit cards issued to small businesses are “small business loans,” if such loans otherwise meet the definition.

Current Definition	Proposed Definition §.12
<b>Small farm</b>	
*Not a defined term under current regulations*	<div style="text-align: right;"><b>*New*</b></div> <b>Small farm</b> means a farm that had gross annual revenues for its preceding fiscal year of \$5 million or less.

**WK annotation: Small farm.** In the NPR, this term means a farm with gross annual revenues for its preceding fiscal year of up to \$5 million. The agencies propose to define “small farm” consistently with the CFPB’s Section 1071 proposal, and to begin applying the new term for CRA evaluation purposes when Section 1071 becomes final, and small farm loan data is available. (The agencies will continue using existing data to evaluate distribution of lending to farms with revenues of up to \$500,000 in the interim.)

Current Definition	Proposed Definition §.12
<b>Small farm loan</b>	
§.12(w) <b>Small farm loan</b> means a loan included in “loans to small farms” as defined in the instructions for preparation of the Consolidated Report of Condition and Income.	<div style="text-align: right;"><b>*Revised*</b></div> <b>Small farm loan</b> means, <u>notwithstanding the definition of “small farm” in this section</u> , a loan included in “loans to small farms” as defined in the instructions for preparation of the Call Report.

**WK annotation: Small farm loan.** In the NPR, this term means a loan included in “loans to small farms”, as that phrase is defined in the [Call Report instructions](#) (notwithstanding the definition of “small farm,” above).



## Geographic and Census-Related Terms

Current Definition	Proposed Definition §_12
<b>Assessment area</b>	
§_12(c)  <b>Assessment area</b> means a geographic area delineated in accordance with § _41.	<i>*Not a defined term under proposed regulations*</i>

**WK annotation: Assessment area.** See NEW “Facility-based assessment area”; “Outside retail lending area”; and “Retail lending assessment area” definitions.

Current Definition	Proposed Definition §_12
<b>Census tract</b>	
<i>*Not a defined term under current regulations*</i>	<div style="text-align: right;"><b>*New*</b></div> <b>Census tract</b> means a census tract delineated by the U.S. Census Bureau in the most recent decennial census.

**WK annotation: Census tract.** Under the NPR, this new term replaces the term “geography” that is part of the current CRA regulations. (See immediately below.)

Current Definition	Proposed Definition §_12
<b>Geography</b>	
§_12(k)  <b>Geography</b> means a census tract delineated by the United States Bureau of the Census in the most recent decennial census.	<i>*Not a defined term under proposed regulations*</i>

**WK annotation: Geography.** See NEW “Census tract” definition.

Current Definition	Proposed Definition §_12
<b>County</b>	
<i>*Not a defined term under current regulations*</i>	<div style="text-align: right;"><b>*New*</b></div> <b>County</b> means any county or statistically equivalent entity as defined by the U.S. Census Bureau.

**WK annotation: County.** This term is defined in the NPR to mean a county or a statistically equivalent entity defined by reference to the U.S. Census Bureau.

Current Definition	Proposed Definition §.12
<b>Deposit location</b>	
<p><i>*Not a defined term under current regulations*</i></p>	<div data-bbox="1442 268 1539 321" style="float: right; background-color: #0070C0; color: white; padding: 2px 5px; border-radius: 3px;">*New*</div> <p><i>Deposit location</i> means:</p> <ol style="list-style-type: none"> <li data-bbox="553 394 1511 489">(1) For banks that collect and maintain deposits data as provided in § __.42, the census tract or county, as applicable, in which the consumer resides, or the census tract or county, as applicable, in which the business is located if it has a local account.</li> <li data-bbox="553 506 1533 695">(2) For banks that collect and maintain, but that do not report, deposits data as provided in § __.42, the census tract or county, as applicable, in which the consumer resides, or the census tract or county, as applicable, in which the business is located if it has a local account except that, for purposes of the Market Volume Benchmark and for all community development financing benchmarks, the county of the bank branch to which the deposits are assigned in the FDIC’s Summary of Deposits.</li> <li data-bbox="553 711 1520 806">(3) For banks that do not collect and maintain deposits data as provided in § __.42, the county of the bank branch to which the deposits are assigned in the FDIC’s Summary of Deposits.</li> </ol>

**WK annotation: *Deposit location*.** This term is defined in the NPR separately for three groups of banks. See also the definition of “deposits” above, which is defined with respect to these same three groups.

- (i) for banks that collect, maintain, and report deposits data, the term refers to the census tract or county (as applicable) in which the consumer resides, or in which the business is located (if it has a local account);
- (ii) for banks that collect and maintain, but that do not report, deposits data, the term refers to the census tract or county, as applicable, in which the consumer resides, or the census tract or county, as applicable, in which the business is located if it has a local account; except that for purposes of the Market Volume Benchmark and for all community development financing benchmarks, it refers to the county of the bank branch to which the deposits are assigned in the FDIC’s Summary of Deposits.
- (iii) for banks that do not collect and maintain deposits data, the term refers to the county of the bank branch to which the deposits are assigned in the FDIC’s Summary of Deposits.

Current Definition	Proposed Definition §.12
<b>Dispersion of retail lending</b>	
<p><i>*Not a defined term under current regulations*</i></p>	<div data-bbox="1442 1346 1539 1398" style="float: right; background-color: #0070C0; color: white; padding: 2px 5px; border-radius: 3px;">*New*</div> <p><i>Dispersion of retail lending</i> means how geographically diffuse or widely spread such lending is across census tracts of different income levels within a facility-based assessment area, retail lending assessment area, or outside retail lending area.</p>

**WK annotation: *Dispersion of retail lending*.** Under the NPR, this term means geographic “diffusion” of retail lending (or how widely it is spread) across census tracts of different income levels within a facility-based assessment area, retail lending assessment area, or outside retail lending area. This term should not be confused with the term “distribution of retail lending.”

Current Definition	Proposed Definition §_12
<b><i>Distressed or underserved nonmetropolitan middle-income census tract</i></b>	
<p><i>*Not a defined term under current regulations*</i></p>	<div data-bbox="1442 268 1539 321" style="float: right; background-color: #0070C0; color: white; padding: 2px 5px; border-radius: 3px;">*New*</div> <p><i>Distressed or underserved nonmetropolitan middle-income census tract</i> means a census tract publicly designated as such by the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC), based on the criteria in paragraphs (1) and (2) of this definition, compiled in a list and published annually by the Federal Financial Institutions Examination Council (FFIEC).</p> <p>(1) A nonmetropolitan middle-income census tract is designated as distressed if it is in a county that meets one or more of the following criteria:</p> <ul style="list-style-type: none"> <li>(i) An unemployment rate of at least 1.5 times the national average;</li> <li>(ii) A poverty rate of 20 percent or more; or</li> <li>(iii) A population loss of 10 percent or more between the previous and most recent decennial census or a net migration loss of five percent or more over the five-year period preceding the most recent census.</li> </ul> <p>(2) A nonmetropolitan middle-income census tract is designated as underserved if it meets the criteria for population size, density, and dispersion that indicate the area’s population is sufficiently small, thin, and distant from a population center that the census tract is likely to have difficulty financing the fixed costs of meeting essential community needs. The criteria for these designations are based on the Urban Influence Codes established by the U.S. Department of Agriculture’s Economic Research Service numbered “7,” “10,” “11,” or “12.”</p>

**WK annotation: *Distressed or underserved nonmetropolitan middle-income census tract.*** Under the NPR, this term means a census tract designated as such by the agencies based on the “distressed” and “underserved” criteria in this definition. In accordance with the proposed regulation, a list of distressed or underserved nonmetropolitan middle-income census tracts will be compiled annually and published by the FFIEC.

**NOTE:** See relevant discussion at 87 FR 33962. In summary: Under the NPR, the agencies will consider whether a newly-opened branch alleviates one or more census tracts’ very low branch access status among other factors in the qualitative approach to evaluating areas with few or no branches.

Current Definition	Proposed Definition §_12
<b><i>Distribution of retail lending</i></b>	
<p><i>*Not a defined term under current regulations*</i></p>	<div data-bbox="1442 1556 1539 1608" style="float: right; background-color: #0070C0; color: white; padding: 2px 5px; border-radius: 3px;">*New*</div> <p><i>Distribution of retail lending</i> refers to how such lending is apportioned among borrowers of different income levels, businesses or farms of different sizes, or among census tracts of different income levels.</p>

**WK annotation: *Distribution of retail lending.*** This term, as defined in the NPR, will focus on “apportionment” of retail lending among borrowers (based on income levels, and business/farm size), or census tracts of different income levels. This term should not be confused with the term “dispersion of retail lending.”

Current Definition	Proposed Definition §_12
<b>Evaluation period</b>	
*Not a defined term under current regulations*	<div style="text-align: right; background-color: #0070c0; color: white; padding: 2px 5px; display: inline-block;">*New*</div> <p><i>Evaluation period</i> refers to the period of time between CRA examinations, generally in calendar years, in accordance with the [Agency's] guidelines and procedures.</p>

**WK annotation: *Evaluation period*.** In the NPR, this term means the period of time (typically, calendar years) between CRA examinations under each Agency's guidelines and procedures.

Current Definition	Proposed Definition §_12
<b>Facility-based assessment area</b>	
*Not a defined term under current regulations*	<div style="text-align: right; background-color: #0070c0; color: white; padding: 2px 5px; display: inline-block;">*New*</div> <p><i>Facility-based assessment area</i> means a geographic area delineated in accordance with § __.16.</p>

**WK annotation: *Facility-based assessment area*.** In the NPR, this term means a geographic area as delineated under § \_\_.16.

Under § \_\_.16, a facility-based assessment area must include:

- (i) each county in which a bank has a main office, a branch, any other staffed bank facility that accept deposits, or a deposit-taking remote service facility; and
- (ii) surrounding geographies in which the bank has originated or purchased a substantial portion of its loans (including home mortgage loans, small business loans, small farm loans, and automobile loans).

“Facilities” must be open to the general public.

Facility-based assessment areas must consist of:

- (i) one or more MSAs or metropolitan divisions (using the boundaries that were in effect as of January 1 of the calendar year of the delineation); or
- (ii) one or more contiguous counties within an MSA, metropolitan division, or the nonmetropolitan area of a state.

**Exception:** An intermediate bank or a small bank may delineate facility-based assessment areas around only the portion of a county that it reasonably can be expected to serve. (Facility-based assessment areas that include partial counties must consist only of whole census tracts.) Facility-based assessment areas may not extend beyond an MSA boundary or beyond a state boundary unless the assessment area is located in a multistate MSA or combined statistical area.

**NOTE:** See relevant discussion at 87 FR 33916. In summary: Under the NPR, banks will be evaluated on all applicable performance tests within each facility-based assessment area to recognize that facility-based assessment areas remain central to performance evaluation framework.

Current Definition	Proposed Definition §_12
<b>High opportunity area</b>	
<p><i>*Not a defined term under current regulations*</i></p>	<div style="text-align: right; color: white; background-color: #0070C0; padding: 2px 5px; font-weight: bold;">*New*</div> <p><i>High opportunity area</i> means:</p> <ol style="list-style-type: none"> <li>(1) An area designated by the U.S. Department of Housing and Urban Development (HUD) as a “Difficult Development Area” (DDA); or</li> <li>(2) An area designated by a state or local Qualified Allocation Plan as a High Opportunity Area, and where the poverty rate falls below 10 percent (for metropolitan areas) or 15 percent (for nonmetropolitan areas).</li> </ol>

**WK annotation: High opportunity area.** In the NPR, this term means:

- (i) a “Difficult Development Area” (DDA), as designated HUD, or
- (ii) an area designated as such by a state or local Qualified Allocation Plan, with poverty rate below 10% (for metropolitan areas) or 15% (for non-metropolitan areas).

**NOTE:** See relevant discussion at 87 FR 33894. In summary: Under the NPR, these will include census tracts with high costs of development and low poverty rates. See also 87 FR 33914: The proposed definition aligns with the FHFA definition of “high opportunity areas.”

Current Definition	Proposed Definition §_12
<b>Loan location</b>	
<p>§_12(o)</p> <p><b>Loan location.</b> A loan is located as follows:</p> <ol style="list-style-type: none"> <li>(1) A consumer loan is located in the geography where the borrower resides;</li> <li>(2) A home mortgage loan is located in the geography where the property to which the loan relates is located; and</li> <li>(3) A small business or small farm loan is located in the geography where the main business facility or farm is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.</li> </ol>	<div style="text-align: right; color: white; background-color: #70AD47; padding: 2px 5px; font-weight: bold;">*Revised*</div> <p><b>Loan location.</b> A loan is located as follows:</p> <ol style="list-style-type: none"> <li>(1) A consumer loan is located in the <u>census tract</u> where the borrower resides <u>at the time that the consumer submits the loan application</u>;</li> <li>(2) A home mortgage loan is located in the <u>census tract</u> where the property <u>securing the loan</u> is located; and</li> <li>(3) A small business loan or small farm loan is located in the <u>census tract</u> where the main business facility or farm is located or where the loan proceeds otherwise will be applied, as indicated by the borrower.</li> </ol>

**WK annotation: Loan location.** Under the NPR, this loan location within a census tract will continue to be defined for each of three types of loans, as follows:

- A consumer loan is located in the census tract where the borrower resides. The NPR clarifies that the borrower’s residence is determined at the time of the loan application
- A home mortgage loan is located in the census tract where the property securing the loan is located. The NPR clarifies that a home mortgage loan location is based on the location of the property securing the loan (instead of the location of “the property to which the loan relates”)
- The loan location for a small business loan or small farm loan is unchanged by the NPR

Current Definition	Proposed Definition §.12
<b>Low branch access census tract</b>	
<p><i>*Not a defined term under current regulations*</i></p>	<div data-bbox="1442 268 1539 319" style="text-align: right; color: white; background-color: #0070C0; padding: 2px;">*New*</div> <p><i>Low branch access census tract</i> means a census tract with one bank, thrift, or credit union branch within:</p> <ol style="list-style-type: none"> <li>(1) Ten miles of the census tract center of population or within the census tract in nonmetropolitan areas;</li> <li>(2) Five miles of the census tract center of population or within the census tract in a census tract located in an MSA but primarily outside of the principal city components of the MSA; or</li> <li>(3) Two miles of the census tract center of population or within the census tract in a census tract located in an MSA and primarily within the principal city components of the MSA.</li> </ol>

**WK annotation: *Low branch access census tract*.** This term is defined in the NPR to mean a census tract within which there is only one branch within a specified distance from the census tract center of population or within the census tract itself (depending on whether it is an MSA or a non-metropolitan area).

**NOTE:** See relevant discussion at 87 FR 33960, 33962. In summary: Census tracts with limited access categories (“low branch access” and “very low branch access”) are defined in the NPR based on the number of bank branches within a certain distance of the tract’s center of population (one branch within this distance or the tract itself, and zero branches within this distance or the tract itself, respectively). The use of centers of populations, rather than geographic centers of tracts, is intended to capture the distance between branches and people at the census tract level.

See also the defined term “very low branch access census tract” below.

Current Definition	Proposed Definition §.12
<b>Metropolitan area</b>	
<p><i>*Not a defined term under current regulations*</i></p>	<div data-bbox="1442 1285 1539 1335" style="text-align: right; color: white; background-color: #0070C0; padding: 2px;">*New*</div> <p><i>Metropolitan area</i> means any MSA, combined MSA, or metropolitan division as defined by the Director of the Office of Management and Budget.</p>

**WK annotation: *Metropolitan area*.** This term is defined in the NPR by reference to the OMB definitions of “MSA,” “combined MSA,” or “metropolitan division.” (See [Glossary \(census.gov\)](https://www.census.gov/glossary).)

Current Definition	Proposed Definition §_12
<b>Metropolitan division</b>	
§_12(q)  <b>Metropolitan division</b> means a metropolitan division as defined by the Director of the Office of Management and Budget.	*No substantive change*  <b>Metropolitan division</b> has the same meaning given to that term by the Director of the Office of Management and Budget.

**WK annotation: Metropolitan division.** Under the NPR, this term continues to be defined by reference to the corresponding OMB definition. (See [Glossary \(census.gov\)](#).)

Current Definition	Proposed Definition §_12
<b>MSA</b>	
§_12(r)  <b>MSA</b> means a metropolitan statistical area as defined by the Director of the Office of Management and Budget.	*No substantive change*  <b>Metropolitan statistical area (MSA)</b> has the same meaning given to that term by the Director of the Office of Management and Budget.

**WK annotation: Metropolitan statistical area (MSA).** Under the NPR, this term continues to be defined by reference to the corresponding OMB definition. (See [Glossary \(census.gov\)](#).)

Current Definition	Proposed Definition §_12
<b>Multistate metropolitan statistical area (multistate MSA)</b>	
*Not a defined term under current regulations*	*New*  <b>Multistate metropolitan statistical area (multistate MSA)</b> has the same meaning given to that term by the Director of the Office of Management and Budget.

**WK annotation: Multistate metropolitan statistical area (multistate MSA).** This term is defined in the NPR by reference to the corresponding OMB definitions of “multistate MSA.”

Current Definition	Proposed Definition §_12
<b>Nationwide area</b>	
*Not a defined term under current regulations*	*New*  <b>Nationwide area</b> means the entire United States and its territories.

**WK annotation: Nationwide area.** This term is defined in the NPR to mean the entire United States and its territories.

Current Definition	Proposed Definition §_12
<b>Native land area</b>	
<p style="text-align: center;"><i>*Not a defined term under current regulations*</i></p>	<div style="text-align: right; border: 1px solid black; padding: 2px; width: fit-content; margin-bottom: 10px;">*New*</div> <p><i>Native land area</i> means:</p> <ol style="list-style-type: none"> <li>(1) All land within the limits of any Indian reservation under the jurisdiction of the U.S. Government, as described in 18 U.S.C. 1151(a);</li> <li>(2) All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, as described in 18 U.S.C. 1151(b);</li> <li>(3) All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same, as defined in 18 U.S.C. 1151(c);</li> <li>(4) Any land held in trust by the United States for Native Americans, as described in 38 U.S.C. 3765(1)(A);</li> <li>(5) Reservations established by a state government for a tribe or tribes recognized by the state;</li> <li>(6) Any Alaska Native village as defined in 43 U.S.C 1602(c);</li> <li>(7) Lands that have the status of Hawaiian Home Lands as defined in section 204 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108), as amended;</li> <li>(8) Areas defined by the U.S. Census Bureau as Alaska Native Village Statistical Areas, Oklahoma Tribal Statistical Areas, Tribal-Designated Statistical Areas, or American Indian Joint-Use Areas; and</li> <li>(9) Land areas of state-recognized Indian tribes and heritage groups that are defined and recognized by individual states and included in the U.S. Census Bureau’s annual Boundary and Annexation Survey.</li> </ol>

**WK annotation: *Native land area*.** This term is defined in the NPR to mean specific native and tribal communities.

NOTE: See relevant discussion at 87 FR 33909-33910. In summary: Clear geographic definitions in the NPR include:

- All land within the limits of any Indian reservation under the jurisdiction of U.S. government, dependent communities and allotments (i.e., “**Indian country**”) [See 18 U.S.C. 1151(a) at [18 USC 1151: Indian country defined \(house.gov\)](#)]
- Land **held in trust** by the U.S. for Native Americans. [See 38 U.S.C. 3765(1)(A) at [38 USC 3765: Definitions \(house.gov\)](#)]
- Reservations established by state government for tribes recognized by the states (State American Indian reservations)
- Alaska Native villages [See 43 U.S.C 1602(c) at [43 USC 1602: Definitions \(house.gov\)](#)]
- Hawaiian Home Lands [See section 204 of the [HAWAIIAN HOMES COMMISSION ACT, 1920.](#)]
- As defined by the U.S. Census Bureau:
  - Alaska Native Village Statistical Areas (the more densely settled portion of villages)
  - Oklahoma Tribal Statistical Areas (identified and delineated in consultation with federally recognized tribes based in OK)
  - Tribal-Designated Statistical Areas (areas delineated by the tribes that do not have a reservation or off-reservation trust land)
  - American Indian Joint-Use Areas (areas administered jointly and/or claimed by one or more tribes)
- Land areas of state-recognized Indian tribes and heritage groups (State-designated Tribal Statistical Areas)
- Areas typically considered “Native geographies” by the Bureau of Indian Affairs or the U.S. Census Bureau (i.e., American Indian/Alaska Native/Native Hawaiian Areas and/or Land Area Representations). (BIA and U.S. Census Bureau maintain data files defining related boundaries.)

**NOTE:** See relevant discussion at 87 FR 33910. In summary: “Native Land Areas” under the NPR resemble the comprehensive categories of the rescinded OCC 2020 Final Rule. 85 FR 34734 (June 5, 2020); rescinded 86 FR 71328 (Dec. 15, 2021).



Current Definition	Proposed Definition §.12
<b>Nonmetropolitan area</b>	
§.12(s)  <i>Nonmetropolitan area</i> means any area that is not located in an MSA.	<b>*No change*</b>

Current Definition	Proposed Definition §.12
<b>Outside retail lending area</b>	
<i>*Not a defined term under current regulations*</i>	<b>*New*</b>  <i>Outside retail lending area</i> means the nationwide area outside of a bank's facility-based assessment areas and, as applicable, retail lending assessment areas.

**WK annotation: *Outside retail lending area*.** The NPR defines this term to mean the nationwide area outside of a bank's facility-based and retail lending assessment areas (as applicable).

Current Definition	Proposed Definition §.12
<b>Retail lending assessment area</b>	
<i>*Not a defined term under current regulations*</i>	<b>*New*</b>  <i>Retail lending assessment area</i> means a geographic area, separate and distinct from a facility-based assessment area, delineated in accordance with § __.17.

**WK annotation: *Retail lending assessment area*.** In the NPR, this term is defined to mean a geographic area, separate and distinct from a facility-based assessment area, delineated in accordance with § \_\_.17.

Under § \_\_.17, a bank's retail lending activities are evaluated in one or more retail lending assessment areas outside of the bank's facility-based assessment areas.

A retail lending assessment area must consist of either:

- (i) The entirety of a single MSA (using the MSA boundaries in effect as of January 1 of the calendar year of the delineation), excluding counties that are inside facility-based assessment areas; or
- (ii) All of the counties in a single state that are not included in an MSA (using the MSA boundaries in effect as of January 1 of the calendar year of the delineation), excluding counties inside facility-based assessment areas, aggregated into a single retail lending assessment area.

A retail lending assessment area may not extend beyond an MSA boundary or beyond a state boundary unless the assessment area is located in a multistate MSA or combined statistical area.

A large bank must delineate a retail lending assessment area in any MSA or nonmetropolitan area of a state, respectively, in which it originated, as of December 31 of each of the two preceding calendar years, in that geographic area:

- At least 100 home mortgage loans outside of facility-based assessment areas
- At least 250 small business loans outside of facility-based assessment areas

Current Definition	Proposed Definition §_12
<b>State</b>	
*Not a defined term under current regulations*	State means a U.S. state or territory, and includes the District of Columbia. <span style="float: right;">*New*</span>

**WK annotation: State.** In the NPR, this NEW term is defined to mean a U.S. state (including the District of Columbia), or territory.

Current Definition	Proposed Definition §_12
<b>Targeted census tract</b>	
*Not a defined term under current regulations*	Targeted census tract means: <ul style="list-style-type: none"> <li>(1) A low-income census tract or a moderate-income census tract; or</li> <li>(2) A distressed or underserved nonmetropolitan middle-income census tract.</li> </ul> <span style="float: right;">*New*</span>

**WK annotation: Targeted census tract.** In the NPR, this NEW term is defined to mean

- (i) A low-income census tract or a moderate-income census tract; or
- (ii) A distressed or underserved nonmetropolitan middle-income census tract.

Current Definition	Proposed Definition §_12
<b>Very low branch access census tract</b>	
*Not a defined term under current regulations*	Very low branch access census tract means a census tract with no bank, thrift, or credit union branches within: <ul style="list-style-type: none"> <li>(1) Ten miles of the census tract center of population or within the census tract in nonmetropolitan areas;</li> <li>(2) Five miles of the census tract center of population or within the census tract located in an MSA but primarily outside of the principal city components of the MSA; or</li> <li>(3) Two miles of the census tract center of population or within the census tract located in an MSA and primarily within the principal city components of the MSA.</li> </ul> <span style="float: right;">*New*</span>

**WK annotation: Very low branch access census tract.** In the NPR, this term is defined to mean a census tract within which there are no (i.e., zero) branches within a specified distance of the center of population or within the census tract itself (depending on whether it is an MSA or a non-metropolitan area).

**NOTE:** See relevant discussion at 87 FR 33960, 33962. In summary: Census tracts with limited access categories (“low branch access” and “very low branch access”) are defined in the NPR based on the number of bank branches within a certain distance of the tract’s center of population (one branch within this distance or the tract itself, and zero branches within this distance or the tract itself, respectively). The use of centers of populations, rather than geographic centers of tracts, is intended to capture the distance between branches and people at the census tract level.

See also the defined term “low branch access census tract” above.

## Income-Related Classifications

Current Definition	Proposed Definition §_12
<b>Area median income</b>	
<p>§_12(b)</p> <p><b>Area median income</b> means:</p> <ol style="list-style-type: none"> <li>(1) The median family income for the MSA, if a person or geography is located in an MSA, or for the metropolitan division, if a person or geography is located in an MSA that has been subdivided into metropolitan divisions; or</li> <li>(2) The statewide nonmetropolitan median family income, if a person or geography is located outside an MSA.</li> </ol>	<div style="text-align: right; background-color: #92d050; padding: 2px;">*Revised*</div> <p><b>Area median income</b> means:</p> <ol style="list-style-type: none"> <li>(1) The median family income for the <u>metropolitan statistical area (MSA)</u>, if a person or <u>census tract</u> is located in an MSA, or for the metropolitan division, if a person or <u>census tract</u> is located in an MSA that has been subdivided into metropolitan divisions; or</li> <li>(2) The statewide nonmetropolitan median family income, if a person or <u>census tract</u> is located outside an MSA.</li> </ol>

**WK annotation: Area median income.** This term, as revised in the NPR, uses a complete spelling in addition to the “MSA” acronym, and substitutes the phrase “census tract” in place of “geography.”

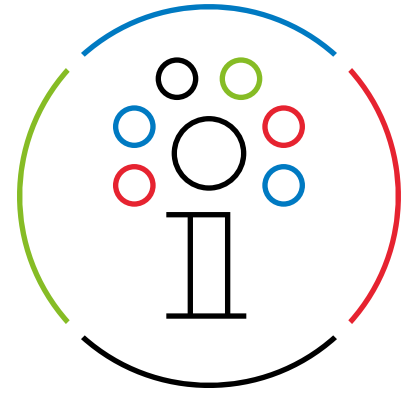
Current Definition	Proposed Definition §_12
<b>Income level</b>	
<p>§_12(m)</p> <p><b>Income level</b> includes:</p> <p>(1) <b>Low-income</b>, which means an individual income that is less than 50 percent of the area median income, or a median family income that is less than 50 percent, in the case of a geography.</p> <p>(2) <b>Moderate-income</b>, which means an individual income that is at least 50 percent and less than 80 percent of the area median income, or a median family income that is at least 50 and less than 80 percent, in the case of a geography.</p> <p>(3) <b>Middle-income</b>, which means an individual income that is at least 80 percent and less than 120 percent of the area median income, or a median family income that is at least 80 and less than 120 percent, in the case of a geography.</p> <p>(4) <b>Upper-income</b>, which means an individual income that is 120 percent or more of the area median income, or a median family income that is 120 percent or more, in the case of a geography.</p>	<div data-bbox="1401 268 1536 317" style="text-align: right; background-color: #92d050; padding: 2px;">*Revised*</div> <p><b>Income level</b> includes:</p> <p>(1) <b>Low-income</b>, which means:</p> <p>(i) For individuals within a census tract, an individual income that is less than 50 percent of the area median income; or</p> <p>(ii) For a census tract, a median family income that is less than 50 percent of the area median income.</p> <p>(2) <b>Moderate-income</b>, which means:</p> <p>(i) For individuals within a census tract, an individual income that is at least 50 percent and less than 80 percent of the area median income; or</p> <p>(ii) For a census tract, a median family income that is at least 50 percent and less than 80 percent of the area median income.</p> <p>(3) <b>Middle-income</b>, which means:</p> <p>(i) For individuals within a census tract, an individual income that is at least 80 percent and less than 120 percent of the area median income; or</p> <p>(ii) For a census tract, a median family income that is at least 80 percent and less than 120 percent of the area median income.</p> <p>(4) <b>Upper-income</b>, which means:</p> <p>(i) For individuals within a census tract, an individual income that is 120 percent or more of the area median income; or</p> <p>(ii) For a census tract, a median family income that is 120 percent or more of the area median income.</p>

**WK annotation: Income level.** Under the NPR, this term continues to mean four existing categories of low- (remaining at less than 50%), moderate- (remaining at 50% to less than 80%), middle- (remaining at 80% to less than 120%), and upper-income (remaining at 120% or more) levels. These levels continue to be defined for individuals within a census tract, as well as census tracts (formerly, “geography”).

## List of Defined Terms Sorted by Status

The following are lists of defined terms included in the NPR. For ease of reference, they are sorted by status:

- NEW -- defined terms that are new in the NPR (not part of the current regulations);
- REVISED -- terms that are part of the current regulations but which have been revised by the NPR;
- REVISED (no substantive change) -- terms in the current regulations whose revision in the NPR produces no substantive change;
- NOT DEFINED -- terms that are part of the current regulations but which are not part of the proposed regulation in the NPR; and
- NO CHANGE -- terms that are part of the current regulations and which are carried forward unchanged in the NPR.



### NEW

As proposed, the following terms will become part of “Definitions”:

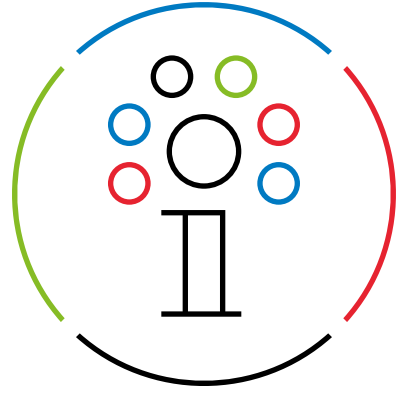
<i>Affordable housing.</i>	<i>Military bank.</i>
<i>Census tract.</i>	<i>Minority depository institution (MDI).</i>
<i>Closed-end home mortgage loan.</i>	<i>Multifamily loan.</i>
<i>Community Development Financial Institution (CDFI).</i>	<i>Multistate metropolitan statistical area (multistate MSA).</i>
<i>Community development investment.</i>	<i>Nationwide area.</i>
<i>County.</i>	<i>Native land area.</i>
<i>Deposits.</i>	<i>Open-end home mortgage loan.</i>
<i>Deposit location.</i>	<i>[Operations subsidiary or operating subsidiary].</i>
<i>Dispersion of retail lending.</i>	<i>Outside retail lending area.</i>
<i>Distressed or underserved nonmetropolitan middle-income census tract.</i>	<i>Remote service facility.</i>
<i>Distribution of retail lending.</i>	<i>Retail banking services.</i>
<i>Evaluation period.</i>	<i>Retail lending assessment area.</i>
<i>Facility-based assessment area.</i>	<i>Retail loan.</i>
<i>High opportunity area.</i>	<i>Small business.</i>
<i>Intermediate bank.</i>	<i>Small farm.</i>
<i>Large bank.</i>	<i>State.</i>
<i>Low branch access census tract.</i>	<i>Targeted census tract.</i>
<i>Low-cost education loan.</i>	<i>Very low branch or census tract.</i>
<i>Low-income credit union (LICU).</i>	<i>Women’s depository institution (WDI).</i>
<i>Metropolitan area.</i>	

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## Revised

As proposed, the following terms will be revised under proposed regulations:

<i>Area median income.</i>	<i>Home mortgage loan.</i>
<i>Bank.</i>	<i>Limited purpose bank.</i>
<i>Branch.</i>	<i>Loan location.</i>
<i>Community development.</i>	<i>Small bank.</i>
<i>Community development loan.</i>	<i>Small business loan.</i>
<i>Community development services.</i>	<i>Small farm loan.</i>
<i>Consumer loan.</i>	



## Revised (no substantive change)

As proposed, the following terms will be revised without substantive change:

<i>Income level.</i>	<i>Metropolitan statistical area (MSA).</i>
<i>Metropolitan division.</i>	<i>Wholesale bank.</i>

## Not defined

As proposed, the following terms will not be addressed in Definitions:

<i>Assessment area.</i>	<i>Loan production office.</i>
<i>Automated teller machine (ATM)/Remote Service Facility (RSF).</i>	<i>Qualified investment.</i>
<i>Geography.</i>	

## No change

As proposed, the following terms will not change in Definitions:

<i>Affiliate.</i>	<i>Nonmetropolitan area.</i>
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