
Office of the Comptroller of the Currency
Federal Deposit Insurance Corporation
Federal Reserve Board
Office of Thrift Supervision

March 27, 1997

Michael Glenn Nathans
Penn Capital Inc.
1324 Cape Saint Claire Rd.
Suite 174
Annapolis, MD 21401

Dear Mr. Nathans:

This responds to your inquiry concerning the treatment under the revised Community Reinvestment Act (CRA) regulation of a program to facilitate rental payment data being reported to credit bureau agencies. As you know, the banking and thrift regulatory agencies have developed substantively identical CRA regulations which can be found at 12 C.F.R. parts 25, 228, 345, and 563e. Therefore, staff from all of the agencies have considered the issues you raised, and they concur in the opinions expressed in this letter.

You have asked whether institutions would receive favorable consideration under CRA for being a conduit of rental payment information to credit bureau agencies. As you explained, institutions could offer this "service" by accepting rental payments from tenants of the apartment complexes that have a deposit relationship with the institution. Tenants would pay their rent directly to the apartment complex's deposit account at the institution, enabling the institution to create rental payment histories for each renter in participating apartment complexes. This information would then be transmitted to the credit bureau agencies along with the other credit history information regarding the institution's own credit customers. The basic service would be designed to create something akin to a credit history for people who may not otherwise be able to develop a more conventional credit history. This history of rental payment would then be available to support any future applications for credit the tenant may make.

You have suggested that an institution could expand the service to include escrowing rents in situations regarding tenant/landlord disputes. The expanded service would allow the tenant to continue to receive credit for payment of rent on time during the period of dispute and increase the likelihood of the landlord resolving the situation.

Your letter explains that institutions are increasingly relying on “retail credit” scoring technology to predict future housing payment behavior, as a method to qualify borrowers and residential lease applicants. You point out the largest single obstacle to the application of this beneficial technology to low and moderate income mortgage applicants is the lack of sufficient prior “housing credit” data required to produce a predictive score. You indicate that renters are deprived of the opportunity to build a positive credit file through paying their rent on time, because the owners of the houses and apartments do not normally report the history of their tenants’ rental payment to credit bureaus. Being a conduit of rental payment information to credit bureau agencies, as well as offering escrow services to these renters, will, in your view, enable them to build accurate housing payment histories through the credit bureau reports.

Services are evaluated by reviewing a bank’s record of helping to meet the credit needs of its assessment area(s) by analyzing both the availability and effectiveness of a bank’s systems for delivering retail banking services and the extent and innovativeness of its community development services. See 12 C.F.R.228.24. In determining whether this service is a “community development service” the following definitions were reviewed. Community development services are services that have a primary purpose of community development, are related to the provision of financial services and have not been considered in the evaluation of the bank’s retail banking services under 12 C.F.R. 228.24(d). The concept of community development includes: affordable housing for low- or moderate-income persons; community services targeted to low-or moderate-income persons; activities that promote economic development by financing small businesses or farms; and activities that revitalize or stabilize low- or moderate-income geographies. See 12 C.F.R. 25.12(h), 228.12(h), 345.12(h), and 563e.12(g).

The second footnote in the supplementary information to the new CRA regulation as published in the Federal Register lists several examples of community development services. The following community development services represent a few of the services listed in that footnote: providing technical expertise for not-for-profit, tribal or government organizations serving low- and moderate-income housing needs or economic revitalization and development; providing credit counseling, home buyers counseling, home maintenance counseling, and/or financial planning to promote community development and affordable housing; and other financial services the primary purpose of which is community development, such as low-cost or free government check cashing. For further examples of community development services see the answer for question 3 under .12(j) & 563e.12(i) Community Development service in the newly released Interagency Questions and Answers Regarding Community Reinvestment (61 Fed. Reg. 54,647, 54,650 (Oct.21, 1996)).

As explained more fully below, the services you describe could be “community development services” provided several basic conditions are met. In order to be considered a “retail banking service” the persons to benefit must have the option to participate or not and then clearly elect to receive this service. In addition, the credit bureau agencies must accept the data and incorporate it into the credit bureau reports issued. To be a “community development service” the persons

benefitting from this service need to be primarily low- and moderate-income persons or live in low- and moderate-income tracts, as defined in the new CRA regulation. *See* 12 C.F.R. 25.12(n), 228.12(n), 345.12(n), and 563e.12(m). The apartment complexes should be within the institutions assessment area(s). The amount of consideration given to this service will depend on the identified needs of each individual community, therefore the amount of consideration an institution receives for CRA may vary from community to community.

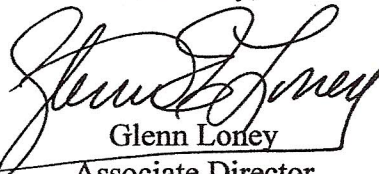
It is our opinion that services meeting the conditions described above qualify as community development since the institution is utilizing its technical expertise to benefit low- or moderate-income individuals and their potential housing credit needs. Therefore, they will receive favorable CRA consideration as a community development service.

Finally, you have asked whether providing household budget planning and electronic cash management services for low and moderate income renters would receive favorable consideration under the CRA. If these services are provided within an institution's assessment area and were not considered as a retail service, it is our opinion that these services would also receive positive CRA consideration as they are community services targeted to low- and moderate income individuals and are related to the provision of financial services.

Regardless of the evaluation method (large bank test, small bank test, community development test or strategic plan evaluation) used by examiners, any institution can receive positive consideration for providing "community development services." A large retail institution's record of helping to meet community credit needs through its services (both retail and community development) are evaluated under the service test. *See* 12 CFR _ 25.24, 248.24, 345.24, and 563e.24. For small institutions the community development services are reviewed if the institution is lending at a satisfactory level and believes it is performing at an outstanding level and wishes to have its service (both retail and community development services) record reviewed. *See* 12 CFR _ pt. 25 app. A(d)(2), pt. 228 app. A(d)(2), pt. 345 app. A(d)(2), and pt. 563e app. A(d)(2). Wholesale and limited purpose banks are evaluated under the community development test and are therefore rated solely on their community development lending, services and qualified investments. *See* 12 CFR _ 25.25(c)(2), 228.25(c)(2), 345.25(c)(2), and 563e.25(c)(2). Institutions operating under a strategic plan can include community development services within their strategic plan. *See* 12 CFR _ 25.27(f)(1)(ii), 228.27(f)(1)(ii), 345.27(f)(1)(ii), and 563e.27(f)(1)(ii).

I trust this letter has been responsive to your inquiry. If you have any further questions, please feel free to contact me at (202) 452-3585.

Sincerely,



Glenn Loney

Associate Director

Division of Consumer and Community Affairs
Board of Governors of the Federal Reserve System

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