CRA and Part 24

National banks are encouraged through the Community Reinvestment Act (CRA) to help meet the credit needs of their entire communities, consistent with safe and sound operations. The CRA regulation, 12 CFR 25 (Part 25), establishes the framework and criteria by which examiners assess national banks' records of helping to meet the credit needs of their communities. In contrast, 12 CFR 24 (Part 24) provides national banks with the legal authority to make community development investments designed to promote the public welfare, which are not otherwise expressly permitted under the National Banking Act. Although "qualified investments" are identified in the Community Reinvestment Act as a vehicle that banks can use to meet community credit needs, CRA is often confused with the part 24 investment authority. This article describes the two regulations and sheds light on how they complement each other.

Bank investments under Part 24 must primarily benefit low- and moderate-income persons, low- and moderate-income areas, or other government-targeted redevelopment areas. Part 24 gives banks the authority to make debt and equity investments in affordable housing, small businesses, activities that revitalize or stabilize communities, and other activities, services, or facilities that primarily promote the public welfare.

Qualified community development investments under CRA have a similar goal. Under the CRA, national banks receive positive consideration for making or purchasing investments that meet the definition of a qualified investment under the CRA regulation. Banks may receive positive CRA consideration for investments that:

- Provide affordable housing for low- and moderate-income persons;
- Promote economic development by financing small businesses or farms;
- Revitalize or stabilize low- and moderate-income areas; or
- Provide community services targeted to low- and moderate-income persons.

Qualified investments may be used in every type of CRA evaluation provided by the regulation. Small banks are usually evaluated under a test that focuses on their lending performance. However, a small bank may also request review of its investment and service activities to help it meet its CRA objectives. Large banks are evaluated under the lending, investment, and service tests. And, national banks with limited purpose and wholesale designations are evaluated under the community development test, which assesses the bank's community development lending, qualified investments, and community development services. Finally, national banks that are operating under an OCC-approved CRA strategic plan are evaluated according to the goals of these plans - which may include qualified investments.

Part 24 investments that have been processed according to the guidelines in 12 CFR 24 can usually help banks meet their CRA obligations. In most instances, investments approved under Part 24 also will meet the CRA definition of qualified investments – with one important distinction: CRA-qualified investments are subject to geographic limits while Part 24 investments are not.

Part 24 provides a national bank the authority to make community development investments outside, as well as within, its assessment area. In contrast, a CRA-qualified investment must benefit the bank's assessment area(s), or a broader statewide or regional area that includes the bank's assessment area(s). To meet this test, an investment should have the potential to benefit the bank's assessment area. However, a retail bank that has otherwise adequately met the community development investment needs of its assessment area, will receive consideration for qualified investments that are located within the broader statewide or regional area that includes the assessment area even if these qualified investments do not benefit the assessment area. See Interagency Questions and Answers Regarding Community Reinvestment, 66 Fed. Reg. 36,620, 36,626 (July 12, 2001) (Q&A 12(i)-5).

Wholesale and limited-purpose banks have an even broader geographic limit: The CRA-qualified investment can benefit an area anywhere outside of the assessment area, if the bank has adequately addressed the needs of its assessment area. Banks that want CRA consideration for Part 24 investments should make sure that any CRA-qualified investments purchased under the public welfare investment authority of Part 24 also meet the geographic restrictions in the CRA regulation.

It should also be noted that while public welfare investments under Part 24 require non bank community support, CRA-qualified investments do not. Under Part 24, a national bank may demonstrate community support or participation in several ways. For example, if a bank invests in a community development corporation (CDC), having non bank community representatives with expertise relevant to the proposed investment on the CDC's board of directors qualifies as community support. In addition, a recent change to Part 24 allows a bank to meet this requirement automatically by the receipt of federal low-income housing tax credits for a project in which the investment is made (directly or through a fund that invests in such projects). (Please see 12 CFR 24.3 for additional examples.)

A final difference between Parts 24 and 25 relates to the scope of qualified investment activities. While the CRA regulation sets forth a circumscribed list of affordable housing, small business, and other activities that must be supported by CRA qualified investments, Part 24 tends to be a bit broader. While giving specific examples, Part 24 also broadly authorizes investments that promote the public welfare by primarily benefiting low- and moderate-income persons, low- and moderate-income areas, or government-targeted redevelopment areas.

CRA and Part 24 share the common goal of encouraging bank activities that benefit the public. Since 1965, the OCC has approved more than 1,800 investments under Part 24 and predecessor provisions in which banks and their community partners have invested $12.2 billion. Some national banks make these investments directly, and others make them indirectly though community development corporations, tax credit funds, or in partnership with community-based organizations. Many of the investments leverage funding and services provided by local, state, or federal government agencies. Most of the investments that have been made since CRA was enacted have qualified for CRA credit.

For additional information, please contact Karen Tucker, senior compliance specialist in our Compliance Division, on (202) 874-4428 or at the OCC Website: www.occ.treas.gov

Similarities and Differences between Parts 24 and 25

	Public Welfare Investments - Part 24	CRA - Part 25
Purpose	Provides investment authority to make investments designed to promote public welfare.	Establishes framework and criteria for assessment of banks' performances in helping to meet the credit needs of their communities.
Primary Beneficiaries	● LMI persons ● LMI areas ● Government-targeted redevelopment areas	For qualified investments: ● LMI individuals and geographies in banks' assessment areas ● Small businesses and farms
What Activities Qualify?	● Affordable housing, community services, or financing permanent jobs for LMI persons ● Small business financing ● Area revitalization or stabilization activity ● Other activities, services, or facilities that primarily promote the public welfare	For qualified investments: ● Affordable housing (including multi-family) for LMI persons ● Activities that promote economic development by financing small businesses or farms ● Activities that revitalize or stabilize LMI areas ● Community services targeted to LMI persons
Type of Investment	Equity Investments — stock, including venture capital; limited partnership interests; equity equivalents Debt securities/debentures	Investments, deposits, membership shares, or grants that have as their primary purpose one of the qualified investment activities, as noted above.
Geographic Consideration	No geographic restriction. Investment may benefit a bank's assessment area.	The qualified investment must benefit the bank's assessment area(AA), or a broader statewide or regional area that includes the bank's AA(s), *i.e.*, there must be potential to benefit the AA. However, retail banks that have otherwise adequately met the community development needs of their AA(s) will receive consideration for qualified investments that are located within the broader statewide or regional area that includes the AA(s) even if those qualified investments do not benefit the AA(s). For limited purpose and wholesale banks, the qualified investment can benefit an area anywhere outside of the assessment area if the bank has adequately addressed the needs of its assessment area.
Where to Look For Examples	12 CFR 24.6	Interagency CRA Qs and As, particularly §___.12(s)-4 distributed via OCC Bulletin 2001-39, and also located at 66 FR 36620, (July 12, 2001)
Investment Authority and Limits	12 CFR 24.1 implements the basic investment authority of 12 USC 24 (Eleventh); 24.4 sets the aggregate limit of 5 percent of capital and surplus. However, with written OCC approval, an aggregate limit of 10 percent is allowed for adequately capitalized banks with OCC determination that a higher amount will pose no significant risk to the deposit insurance fund.	Some of a national bank's investments are authorized by 12 USC 24 (Seventh) as implemented by 12 CFR 1. Some CRA qualified investments can be purchased under the category of "securities held based on estimates of obligor's performance," which sets an aggregate limit of 5 percent of capital and surplus. Investment-grade securities have separate limits under 12 CFR 1. 12 CFR 24 also authorizes the purchase of investments that may be CRA-qualified investments. See also OCC Advisory Letter 97-2.
Community Support Requirements	12 CFR 24.3 requires a national bank to demonstrate nonbank community support for or participation in the investment. Examples are provided at 24.3(b).	Not required under the CRA regulation.